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UNIVERSITÉ DE TOULOUSE

FACULTÉ DES LETTRES

NAPOLEON I

AND THE

ORIGINS OF THE ANGLO-AMERICAN WAR OF 1812

BY

PHOEBE ANNE HEATH

THÈSE DE DOCTORAT D'UNIVERSITÉ

Présentée à la Faculté des Lettres de l'Université de Toulouse.

TOULOUSE

IMPRIMERIE ET LIBRAIRIE ÉDOUARD PRIVAT

14, RUE DES ARTS (SQUARE DU MUSÉE)

1929

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TO THE MEMORY OF

Miss BELLE SKINNER

AMERICAN FRIEND OF FRANCE, REBUILDER OF HATTONCHATEL

Her ideals and the example
of her noble life endure
as an inspiration.

PREFACE

« As a member of an infant empire, as a philanthropist by character and if I may be allowed the expression, as a citizen of the great Republic of Humanity at large, I cannot help turning my attention, sometimes, to this subject. I would be understood to mean, I cannot avoid reflecting with pleasure, on the probable influence that commerce may hereafter have on human manners, and society in general. On these occasions I consider, how mankind may be connected, like *One Great Family*, in fraternal ties. I indulge a fond, perhaps an enthusiastic idea that, as the World is much less barbarous than it has been, its melioration must still be progressive ; that nations are becoming more humanized in their policy ; that the subjects of ambition and causes for hostility are daily diminishing ; and, in fine, that the period is not very remote, when the benefits of a liberal and free commerce will pretty generally succeed to the devastation and horrors of war. And I most sincerely and devoutly wish, that the exertions of those having this object in view, may effect what human nature cries aloud for, — a General Peace[1]. »

George WASHINGTON.

The establishment and maintenance of enduring international peace has became the preoccupation of a world emerging from a catastrophe brought on by ambitious nationalism. An increasing tendency toward *rapproche-*

1. Osborn, *Washington Speaks for Himself*, p. 273.

ment, intellectual and material, among the peoples of the earth is one of the most significant political, economic and social phenomena of the twentieth century since the war. It has been ever more frequently demonstrated in diplomatic, commercial and intellectual matters that coöperation, the accommodation of narrower national interests to the larger interests of the Family of Nations is not only philosophically and theoretically to be desired, but is demonstrated in the present age to be of the greatest good to the greatest number.

It is true that commercial and intellectual internationalism have developed further than diplomatic. There are nations whose traditional foreign policies warn against coöperation with others, and governments are bound more closely by the iron hand of precedent and convention than the human mind, or trade, which, « so long as rivers run into the seas, » must find its outlet. But are the conditions which fostered those policies and made them expedient and to the best interests of their founders, still applicable? Have the economic and political circumstances which they were created to meet, persisted, or have they now so changed that a policy of isolation has no *raison d'être*, and is no longer expedient or even practicable?

These considerations have turned my attention toward the examination of the origins of the foreign policy of the United States, to an investigation of the formative period of her attitude toward association with other nations, and as a derivative of that, to her early rôle in regard to International Law. If it be found that in the period from the national origins until 1815, the political

and economic welfare of the Republic depended on drawing apart from the affairs of others, it does not signify that the founders of that policy dictated it as eternal. As one of the leaders himself has said. « ... Melioration must still be progressive..., » since the world seems less barbarous than it was. « General Peace, » for which all men are seeking, may best be accomplished by the connection of mankind « like One Great Family, in fraternal ties... » The policy of establishing « an American Character » in the early period, free of European influence, is seen then, as a step toward preparing the United States to take her place as a helpful member of the Family of Nations. A weakling, nodding in every international wind that blew would not have been an asset in such a circle, but rather a contribution to discord than to the general peace.

An understanding of the events leading to the War of 1812 has appeared to me to be of the first importance in furnishing a background for intelligent consideration of America's place in world affairs today. The field is not entirely uninvestigated, but certain aspects of the relations of France, and more particularly of the Napoleonic diplomacy, to the Anglo-American war, seem to warrant a review of the period with special emphasis on those features of an essentially triangular problem.

The elements of the question go back for their origin to the establishment of France and England as rival colonial powers in North America, and to the emergence of the United States as a nation in the midst of their struggle. A study of the Napoleonic period from 1800 to 1812 must be introduced by a general review of events

in Anglo-Franco-American relations from the 17th century to the early 19th. Analysis shows the events of the years from the rupture of the Peace of Amiens to the outbreak of the war between England and the United States to have been deeply affected by French diplomacy, in spite of America's desperate effort to act independently of Europe. The years 1810-1812 repay the closest study, not only as being the most decisive, but as offering an opportunity of bringing forth material perhaps heretofore not so fully exposed as for the earlier periods, regarding Napoleon's relation to the origins of the Anglo-American War of 1812.

*
* *

I count it a rare privilege to have worked for the two years spent in preparing the present study, under the guidance and counsel of so distinguished an historian as Professor Camille-Georges Picavet. To him I tender the grateful appreciation and respectful hommage of a student who recognizes the inestimable value to herself of intellectual contact with so eminent a *Maître*.

To Professor Joseph Calmette and to Professor Anatole Feugère I wish to express my appreciation of the helpful interest which they have shown in my work and of the benefit derived from their lectures in the *Cours de Méthodologie*.

For his kindly and very real aid in helping me prepare this thesis for publication it is a pleasure to acknowledge my indebtedness to Professor Paul Dottin.

For the many facilities accorded me in the Archives of the American and French governments at Washington

and Paris respectively I am deeply appreciative. I acknowledge with gratitude the courtesies received at the Library of Congress and the Department of State in Washington. To M. Espinas at the Archives du Ministère des Affaires Etrangères and to M. Caron at the Archives Nationales in Paris, I wish also to address my thanks for their many kindnesses.

To The Faculty of Vassar College, may I again express my appreciation of the trust which for two years they have placed in my keeping, — the Belle Skinner Fellowship for the study of History in a French provincial University.

And finally, as the fundamental value of these years of study has lain not only in the academic opportunity of reading in the Archives of the past, but has also arisen from the occasion of sojourning in contemporary France and of learning to understand something of the soul of a great people from contacts formed there, I take this occasion to tender thanks unacademic to my family, to whom I owe much for their part in making possible this international experience.

PHOEBE ANNE HEATH.

Université de Toulouse,
Faculté des Lettres,
3 juin 1929.

CHAPTER I

Foreign Relations of the United States From the 18th Century Colonial Period to 1803.

> « ... My ardent desire is, and my aim has been... to comply strictly with *all* our engagements, foreign and domestic; but... to see [the United States] independent of *all* [nations] and under the influence of none. In a word, I want an American character, that the powers, of Europe may be convinced we act for *ourselves*.
>
> « ... This, in my judgment, is the only way to be respected abroad and happy at home; and not, by becoming the partisans of Great Britain or France, create dissensions, disturb the public tranquillity, and destroy, perhaps for ever, the cement which binds the union... »
>
> George WASHINGTON [1].

The Napoleonic Wars marked the culmination of a century of rivalry between France and England for the colonial and commercial supremacy of the world. Each confronted his enemy not only with military forces in the last determined struggle for the victory, but with economic policies calculated to strike a death blow at the root of the power of resistance. The ever-increasing severity of those policies, and their ever-widening circle of influence drew practically all the nations of Europe into

1. George Washington, *Works*, Ford, ed., XIII, 119, to Patrick Henry, Oct. 9, 1795.

the conflict as partisans of one side or the other. International Law in its vague and ill-defined state in the early nineteenth century did not serve as an effectual restraint upon the belligerents who continued to arrogate to themselves further « rights » at the expense of those of neutrals. There seemed to be no place for non-partisans in the belligerent scheme of things.

But there had arisen in 1783, as an incident in the century-long struggle between France and England, a new nation, — the United States of America, — whose ambitions, situation and natural resources made of her a maritime commercial power, and whose every political and economic interest dictated that she should stand apart from the European strife. America's history from 1789 to 1815 becomes, then, the story of her effort to establish and maintain a larger, more humane interpretation of International Law in regard to the privileges and duties of neutrals, and to secure to herself and all independent neutral nations, commercial rights and freedom from the great monopolistic systems of France and Great Britain.

The way in which she endeavoured to steer a peaceful middle course between the hostile policies of the belligerents, and how and why she failed, constitutes an important and interesting problem in American diplomatic history, particularly in the light of events in the twentieth century. Circumstances, similar in many ways, eventually led the United States to enter world conflicts in 1812 and in 1917 to defend fundamental principles of her diplomacy.

The influences and forces which led her into war in

1812 against Great Britain instead of France offer a significant field for investigation. A survey of the events of the Napoleonic period shows both powers to have been serious offenders against her basic principles of foreign relations. Why did the Americans at last declare war upon one and not the other? Had France an influence in determining the United States to fight the « second war for independence » with England? If so, how powerful was the influence, and in what manner exercised? What part did Napoleon, who after all was France, play in the affairs of the rising nation whose every wish was to free itself of foreign influence? What were the results of the war of 1812, immediate and eventual? national and international?

The problem leads to an attempt at evaluation of the relative material importance of the results in the United States of the two belligerent policies; to an examination of the intricate diplomatic background of the situation; and finally, to an endeavour to understand the psychological forces at the base of the economics and politics of the question. The more particular study of Franco-American relations under Napoleon I, must necessarily fit into its triangular frame of Franco-Anglo-American relations. The subject under consideration may be divided into three parts :

Firstly, — a study of the background of relations between France and the United States, always intimately associated with relations with Great Britain, from the colonial origins to the rupture of the peace of Amiens in 1803;

Secondly, — an examination of the principal and

decisive period of the reactions between European and American policies, with a close examination of the events of 1810 to 1812, leading directly to the war with England;

Thirdly, there is, in conclusion, the consideration of the results of the war and of the relations of the problem to recent world affairs.

The rôle of France in the Anglo-American war of 1812 begins with the Age of Discovery and the origins of foreign influence on the North American continent. Both France and England had, by the end of the seventeenth century, there established for themselves great colonial empires. France held Canada and Louisiana, the latter, a vast and ill-defined province extending westward from the Alleghany Mountains, to the Mississippi River, and beyond to the Rocky Mountains. England possessed colonies along the Atlantic seaboard and westward to the Alleghanies, bounded on the North by Canada and on the South by the Spanish Floridas. Given the geographical proximity of the French and English colonies, the need of expansion westward, which the latter felt very early, and the political as well as commercial jealousies which had traditionally actuated the two colonizing powers, political conflicts in North America were not difficult to foresee.

Events did not belie the indications. France and England, as the great commercial and colonial rivals of the seventeenth, eighteenth and nineteenth centuries, waged seven wars[1] over land and sea, from the Missis-

1. R. Adams, *A History of the Foreign Policy of the United States*, p. 21. — A list of the seven wars follows :

a. King William's War, 1690-1697. Peace of Ryswick.

sippi to the Ganges between 1690 and 1815. Not one of those wars failed to affect the settlements in North America. Before 1776, the colonies on the Atlantic coast, which were to become the United States, had had occasion more than once to observe the manner in which European courts lost and won their lands at treaty-making tables likes o many pawns in a game of chess. The uncertainties which dependence on the affairs of Europe entailed were thus early illustrated to the thirteen colonies of England which in 1776 rebelled against the commercial and political policy of their mother country.

Of the treaty changes made before the American Revolution, those provided in 1763 by the Treaty of Paris at the conclusion of the Seven Years War had the greatest significance for succeeding events. It settled very unsatisfactorily for France, her affairs in North America. It signed the death warrant of her colonial empire, and left her thirsty for revenge upon her ancient and momentarily victorious rival. France was obliged to cede thereby the great province of Canada and the land between the Alleghanies and the Mississippi (except the island of New Orleans) to England. To her ally, Spain, she transferred New Orleans and the lands west of the Mississippi, — the greater part of the vast domain of Louisiana. England

b. War of Spanish Succession, 1701-1713. Treaties of Utrecht.
c. War of Austrian Succession, 1740-1748. Treaty of Aix-la-Chapelle.
d. Seven Years War, 1754-1763. Treaty of Paris.
e. American Revolution, 1778-1783 (Period of french intervention). Treaty of Paris.
f. French Revolutionary Wars, 1792-1802. Treaty of Amiens.
g. Napoleonic Wars, 1803-1815. Congress of Vienna.

retained Florida, gained by an earlier treaty, but restored to France several of the West Indian Islands. Thus in 1763, was destroyed, save for a brief and ineffectual attempt at revival under Napoleon, the colonial greatness of France.

But the dream either of restoring her own power in North America, or, failing that, of helping to create in the English colonies which became the United States, a power, under the influence of France, to be used as a weapon of revenge against England, — that dream may be said in its *grandes lignes* to have characterized the policy of monarchical France toward the United States until 1789, and to have had a place in the plans of Napoleon.

Thus, when Benjamin Franklin, who was the first American envoy to France, Silas Deane, and other agents of the colonies which had declared open rebellion in 1776, sought aid of Louis XVI at the court of France, the time had come for the first stroke of the French weapon of revenge. Timely and generous as was the aid of individuals and government, a motive not completely disinterested actuated the latter in this gesture against England. But the fact that official aid followed auguries of the possibility of colonial success, such as the victory at Saratoga in 1777, does not lessen American gratitude for succour, which, under whatever circumstances sent, turned the tide and assured political independence.

Two treaties were signed between France and the insurgent colonies on January 6, 1778[1]. The first, a treaty

1. Cf. Mc Cary, *Causes of the French Intervention in the American Revolution*, pp. 198-199.

of amity and commerce, referred to the United States as an independent nation. The signatory powers exchanged assurances of « most favoured nation » rights in regard to imports and duties. It was asserted that « free ships make free goods » and an attempt was made to clarify International Law further by a more explicit definition of contraband. The treaty was the first official declaration of the United States on principles in International diplomacy with regard to neutral commercial rights, the defense of which in the next twenty-five years was to embroil her with both France and England, and finally lead her into war with the latter in 1812.

The second treaty signed the same day was one of defensive alliance not only for the present circumstance but for future contingencies. It was greatly to embarrass the early foreign relations of the United States until an arrangement with Napoleon in 1801 voided the treaty. America's first appearance as a nation was marked by the signing of the treaties of 1778 with France, and the accrediting of M. Gérard as first foreign minister to the United States. He was received by Congres on August 6, 1778[1].

In spite of the stipulation to the contrary by the treaty of alliance with France, the United States made a separate peace with England in 1783. It took all Franklin's tact to soothe the ire of France. In the separate peace of 1783, American independence was secured as well as the coveted territory between the Alleghanies and the Mississippi, which England had gained from France in 1763[2].

1. Muzzey. *The United States of America*, I, 93.

2. Spain received West Florida from England in the arrangement concluded in 1783 between England, France, and her ally Spain.

But if England granted political independence to thirteen of her North American colonies in 1783, she made no commercial concessions to the newly established republic. Her seventeenth century navigation system and mercantile theory of commerce, which rendered the resources and trade of colonies the monopoly of the mother country had persisted in the eighteenth, and occasioned some of the leading causes of the American Revolution. Similar principles were held, however, by France and other European colonizing powers, and not only in the eighteenth, but even into the nineteenth century. So far, in fact, was England from relaxing her commercial policy in favour of her ex-colonies[1] that various aspects of that system were destined to have their influence in causing the « second war for independence », (this time, commercial,) in 1812.

The feature most detrimental to American prosperity which the European system provided, was that the carrying trade between colonies and mother country should be confined to ships of the latter. Further, preference was given to colonial produce over the same or superior products from an independent power. Thus, the United States, a commercial and agricultural nation by inclination, natural endowment and habit was, on becoming politically independent in 1783, practically excluded from the colonial carrying trade in any part of the world, and her own produce discriminated against abroad[2]. Her prosperity and economic expansion were largely

1. Moore, *Principles of American Diplomacy*, p. 32.
2. *Cambridge Modern History*, VII, 316.

dependent on the capricious favours of the great commercial monopolists, France and England. Even, the treaty of 1778 with France did not open the French colonial trade to the Americans, although its terms had embodied the « most favoured nation » principle[1]. Her shipping and agriculture needed outlets and trade facilities. That economic force was preparing one cause of the war of 1812 as early as 1783.

But before the newly independent colonies could deal with the foreign problems wich were born with the gaining of political liberty, they were obliged to establish their government on a more solid basis than that which they had set up during the Revolution. The loose, ineffectual Confederation of states in which there were thirteen sovereign bodies instead of one, had been established under the Articles of 1777. It had had the merit of formulating the first national government[2]. As long as the stress of war and revolution bound the colonies together in a common cause, the feeble covenant between thirteen practically sovereign states was adequate. But with the cessation of hostilities, the individual interests of the several states threatened the « firm league of friendship » with dissolution. Its greatest weakness lay in the fact that the thirteen state governments, jealous of their sovereignty, failed to delegate to Congress, which served as Executive, Judicial and Legislative departments, the au-

1. Moore, *o. c.*, 12.

2. Under the Articles of Confederation, there were no separate Executive or Judicial departments. The central government was in the hands of the Congress, composed of delegates from each state, each of which could send from two to seven representatives.

thority necessary to execute the powers granted to it. It could « supplicate » for, but not collect taxes, could not regulate commerce nor had it the means of maintaining an army or navy.

A government which could not command respect at home, could not do so abroad[1]. Most immediately important of the foreign problems confronting the impotent government, was the necessity of compelling Great Britain to execute the treaty of 1783 in so far as she had continued to hold in direct contravention thereof, a line of trading posts between the United States and Canada. English defense was based on the grounds that Americans had failed to pay, as had also been agreed in 1783, certain debts owing British merchants at the opening of the Revolution. It was evident that diplomatic exchanges were necessary. How accomplish them under the supervision of a moribund government? The problem had but one anwer. A new government must be formed.

In May, 1787, a convention of delegates, composed of the leading men of the period, met in Philadelphia with the sanction of the dying Congress of the Confederation, to consider a general revision of the Articles. But repairs could not save the tottering government, and in September 1787, the Convention showed to the world the result of its labours, — the Constitution of the United States, which remains to the present day as the basis of American government. The conception of the Union as

1. Foreign affairs were administered by a Committee for foreign relations from April 17, 1777 to January 10, 1781 when a Department of Foreign Affairs, to be presided over by a Secretary, was created by Congress. Congress received and appointed Ministers, etc.

a mere compact between independent states was abandoned. The attributes of sovereignty were delegated to a comparatively strong central government.

The instrument was the product of the minds of men not unfamiliar with the philosophies of Montesquieu, of Rousseau and of Locke. It was no less the result of experience, which had proved that a separation of powers should be the fundamental of a republican government. Therefore, under a careful system of checks and balances, the legislative, executive and judicial powers were delegated by the people of the United States, to a Congress, composed of an Upper House or Senate, and a Lower House, or House of Reprentatives, to the President of the United States, and to the Supreme Court, with lower federal courts.

Having known the sting of humiliation in the face of European nations, which the impotency of the Confederation had rendered inevitable, the makers of the federal Constitution undertook to provide an adequate machinery for the control of foreign affairs. Control of external relations was given to no one of the three departments, but by the system of checks and balances, was divided among them. The Constitution and principles of International Law were the supreme law under which relations with foreign powers were to be conducted. But there was no specification, framing and dictating a foreign policy[1]. Principles already held, applied to the exigencies of future situations, would form the bases of American diplomacy.

1. R. Adams, *o. c.*, 80.

The organization for the control of foreign affairs as provided in the United States government was not closely comparable to those under which from 1789 to 1815, England and France administered their foreign policies whether under monarchy, republic, consultate or empire. Despite certain resemblances to the office of Prime Minister in a Parliamentary government, such as England's, the office of President of the United States has certain fundamental differences. Whereas a Prime Minister always represents a majority in the Legislative branch of government and his tenure of office ends when he no longer commands that, the President is elected arbitrarily for four years at a time, and one or both Houses of Congress, for which there is an election during a presidential term, may receive an opposition majority. But the President[1] remains, the long process of impeachment being the only means of removing him.

The President shares with the Senate, the treaty-making power[2] and the nomination and appointment of American Ambassadors and Ministers, etc. to other nations[3]. But to him are accredited foreign Ambassadors and Ministers[4]. By virtue of his office, the President is Commander-in-Chief of the Army and Navy[5]. Aside from the high functions which the Senate shares with him, the Congress, composed of both Houses has the power

1. Only one President of the United States has been tried for impeachment, Andrew Johnson. He was acquitted. Administration, 1865-1869.
2. Constitution of U. S., Art. II, Sect. II.
3. *Ibid.*
4. *Ibid.*
5. *Ibid.*

to declare war. Although the President is given no explicit power over the declaration of war, in practice, the message which he is empowered to send to Congress and his power to convene special sessions of Congress give him the opportunity to recommend war. To the present time Congress has never failed to act on such a suggestion.

To Congress is given the further power to regulate commerce with foreign nations, to raise and support armies, to grant letters of marque and reprisal, to make rules concerning captures on land and water, to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations[1].

To the Supreme Court is given the enforcement and interpretation of treaties as law, and admiralty jurisdiction of International Law[2].

In theory, the Executive department as personified in the President became the organ of communication between the United States and other nations. Through him were to be conducted correspondence and official conversation with other powers. But as it was immediately obvious that he could not alone carry on his numerous foreign functions, Congress, in 1789, created a department of State, which was directly responsible to the President instead of to Congress, as under the Articles. The Secretary, appointed by the President with the consent of the Senate, became in practice the intermediary between the United States government and foreign na-

1. Constitution of U. S., Art. I, Sect. VIII.
2. Constitution of U. S., Art. III, Sect. II. Cf. R. Adams, *o. c.*, 78.

tions, the person through whom foreign correspondence was carried on.

To meet increasing pressure on the Executive, Congress successively created other departments, the Secretaries of which form a Presidential Cabinet. Its functions are not delegated by the Constitution, and are merely advisory. In every case, the Cabinet members are responsible to the President for the administration of their departments. The Cabinet members may deliberate and advise the President on measures to be taken in foreign affairs, but in no way may they promulgate measures of foreign policy, as it will be seen the English Cabinet could do.

The Constitution of 1787 was ratified by the States[1] and went into effect with the inauguration of George Washington as first President on March 1, 1789. Controversy over the ratification had given birth to a division of the people into two political groups[2], the Federalists and Anti-Federalists. With the acceptance of the Constitution, their immediate political *raison d'être* vanished, but the economics and political principles which underlay the first division of the American citizens carried over very generally, and as Federalists and Republicans, the parties were to play a significant rôle in the foreign relations of the United States between 1789 and 1815.

The United States over which Washington had been called to preside was a comparatively small country, limited on the North by a disputed Canadian border,

1. Rhode Island did not ratify until May, 1790.
2. Woodburn, *Political Parties*, p. 3.

on the South by the Spanish Floridas and on the West by the Mississippi. The white population consisted of scarcely 3,000,000 souls and a negro slave population of some 700,000. The largest numbers were grouped on the Atlantic coast[1]. Shipping interests and nascent industries characterized the economy of the Northern sections with small scale farming a minor occupation. A large scale agricultural system dominated in the Southern Atlantic region. Communications were poor and difficult, a circumstance tending to increase regional interests to the exclusion of common interests in the general national welfare. Sectionalism was further increased as hardy pioneers penetrated beyond the Alleghanies, withdrawing from the activities of the seaboard and entering upon those of agriculture and trade via the Mississippi[2]. The fact that foreign policy reflects local and domestic conditions[3] was never more clearly demonstrated than during the early years of American history. The demands of the North and South largely dictated the new government's relations with England and France, while western interests were closely affected by Spain[4], so long as she held New Orleans, and Louisiana to the west of the Mississippi.

Washington's ideal of meeting domestic and foreign problems with a united national front of public opinion and political creed was early proved to be impossible.

1. Muzzey, *o. c.*, I, 104.
2. *Cambridge Modern History*, VII, 315.
3. Moore, *o. c.*, Introduction, p. VII.
4. The Florida question did not become important until 1803-1819; cf. below.

He, having been elected unanimously as President, sought to continue the illusion that political parties existed no longer and had no reason to exist, once the Constitution was ratified[1]. He appointed to the two most important portfolios of his first Cabinet, the leaders of the supposedly dead Federalist and Anti-Federalist parties — Alexander Hamilton — as Secretary of the Treasury and Thomas Jefferson as Secretary of State, respectively.

But the first domestic problems[2] which the government dealt with gave the impetus, and the parties, known as the Federalist and Democratic-Republican or Republican, sprang into existence. Immediate internal affairs having been settled to the satisfaction of the Federalists and the dissatisfaction of the Republicans, the parties did not subside, but rather, pursuing logically their differences over domestic affairs, ranged themselves in hostile camps over foreign problems with which the Washington administration had to deal. The Federalists, from the first, had favoured strong central government and liberal construction of the Constitution. Being recruited largely among Northern shippers and merchants, they desired a government strong enough to arrange and enforce treaties with the commercial powers of Europe[3]. Tradition and their best interests, led them to favour accommodation with England rather than with France in the approaching European conflict, for England had been,

1. Pasquet, *Histoire Politique et Sociale du Peuple Américain*, I, 309.
2. Funding of the Public Debt, establishment of a National Bank, proposed by Hamilton and supported by the Federalists.
3. Woodburn, *Political Parties and Party Problems in the United States*, 27.

and continued to be, their most important trading connection. The small farmers and agriculturalists of the South were in general enlisted in the Republican cause[1]. Having favoured States' rights and strict construction in domestic affairs, they opposed commercial *rapprochement* with England, believing it to be detrimental to their agricultural interests and in general they were more sympathetic with France, struggling for her freedom than with their formerly tyrannical mother country[2].

In all forms of popular government, public opinion as expressed by the effective vehicle of political parties, is bound to influence and orient public measures. It was clear therefore, that the foreign policy of the United States was to be profoundly affected by opinion and parties. To the arrangement and straightening out of its confused European connections, the government turned its attention.

In 1789 the United States might naturally have looked hopefully to France for further commercial connection, to France who had been an efficient aid in time of trouble in 1778, and with whom the treaties of commerce and alliance were still in force. But the year in which the American government was inaugurated witnessed the outbreak of the French Revolution, precluding the possibility of improving commercial relations. For three years, Americans watched with a sympathetic interest the events of that struggle. Federalists and Republicans alike could admire, remembering their recent past, a

1. Woodburn, *Political Parties*, 27.
2. Pasquet, *Histoire Politique et Sociale du Peuple Américain*, I, 309.

rebellion resembling their own in that the spirit of liberty struggled against oppression. But the general sympathy was short-lived, although it persisted somewhat among the Republicans, giving rise later to the Federalist charge of « French influence ».

Word came in April 1793, that France had fallen into the hands of Jacobins and extremists who had executed the king and instituted a « reign of terror ». Most vital of all to the United States was the news that she had declared war against Great Britain. The European war which hitherto had been purely continental, assumed a maritime character with the entrance of Great Britain into the conflict[1]. The joining of issues between the ancient rivals would again, as always theretofore in the colonial period, involve in some way the newly established union. What rôle should she play? For the first time she stood alone and politically independent in an international crisis.

The Committee of Public Safety, which in Revolutionary Republican France carried on the functions of foreign correspondence, hoped as early as 1793 that the United States would come to the aid of France, grateful for earlier French aid to herself, and bound by the Treaty of Alliance of 1778. The idea was supported in America by the majority of the Republicans, but opposed by Washington[2] and the Federalists who were not willing to plunge the country into a war with gratitude as the only

1. Moore, *o. c.*, 36.

2. Although Washington endeavoured to hold a middle course between the political parties, he usually agreed with the Federalists on matters of public importance.

motive[1] and being firmly convinced that the circumstances nullified the treaty obligations.

Regulation of the foreign question was greatly complicated by the party dissension. A veritable internal war of words arose. The conservative Federalists charged Republicans with connivance with the terrorist group dominant in France[2]. The Republicans replied by reiterations of earlier accusations that the Federalists were no more than the tools of England and its king, whose commerce they coveted rather than the liberty of France.

At such a moment, with feeling running high, and the course of the Administration uncertain in the face of domestic dissension, word was received that a French Minister Plenipotentiary had arrived in Savannah and was making his way northward to the capital at Philadelphia[3]. « Citizen » Edmond Genêt, contrary to all diplomatic usage was appealing directly to the people of the sympathetic and Republican South for aid for France against England and Spain. His path to Philadelphia was triumphal, and he was little prepared for the cold and disapproving reception which he received from the Administration when he at length arrived to present his credentials. He had compromised the neutrality of the United States and infringed on her sovereignty by enrolling

1. Tricoche, *Une page peu connue de l'Histoire de France,* Revue Historique, 1904, pp. 288-299.

2. *Jacobin* and other clubs favourable to France were actually formed in the United States. Thomas Paine, Joel Barlow and Thomas Jefferson as well as other Americans lent sympathetic personal aid to the Revolution in France.

3. The seat of the National Government was moved to Washington, D. C., in 1800.

privateers, distributing letters of marque, and endeavouring to make of the principal southern ports, bases for French naval operations[1].

To secure advice in meeting the government's first serious international crisis, Washington called his Cabinet together on April 19, 1793. Should the French Minister be received? Did the Treaty of Alliance of 1778 still bind the United States to aid France against England? Would it be fitting for the President to publish a proclamation of neutrality? It was decided to receive Genêt and to disregard the Treaty of Alliance of 1778, which provided for the contingency of a defensive war on the part of France, whereas, in 1793, she had been the aggressor in declaring war on England[2]. On the day that Genêt entered Philadelphia, Washington issued the Proclamation of Neutrality, wherein it was declared that « the duty and interest of the United States require, that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial toward the belligerent powers...[3] »

The proclamation was received with bitter vituperations against Washington and the Administration by the Republicans[4]. He who had been the leader in obtaining and establishing the independence of the United States was now charged with sacrificing the liberty of the na-

1. *a.* Pasquet, *o. c.*, I, 310.
   b. Mantoux, *Le Comité du Salut Public et la Mission de Genêt aux États-Unis.* Revue d'Histoire moderne et contemporaine, 1909-1910, pp. 5-35.
2. Moore, *o. c.*, 43-44.
3. Text of Proclamation reproduced, Moore, *o. c.*, 41.
4. Jefferson resigned from the Cabinet in December, 1793.

tion to interest, and was called the instrument of the English king, having failed a friendly and struggling nation in her hour of need[1]. Genêt threatened to appeal over the heads of the Administration to the people, until his repeated intrigues and insults brought about almost immediately the request for his recall, which the French Government granted, admitting his exaggerations and expressing criticism of his proceedings[2]. As an offset, however, they asked the recall of the American Minister, Gouverneur Morris[3].

Having declared her position of neutrality, the difficulty of maintaining it confronted the United States, for hostile acts followed closely, on the part of both France and England, which greatly affected America's position as a neutral commercial nation. It was clear that the stand which the United States had taken imposed duties as well as conferred privileges. Measures were taken immediately to prevent the fitting out of privateers in American ports, and asylum was refused to any which had been previously equipped. On June 5, 1794, a Neutrality Act was passed by Congress which further provided for the strictly non-partisan policy of the United States[4]. But the maritime war between France and England produced a situation increasingly threatening for neutrals.

International Law, « that common consent of na-

1. *Cambridge Modern History*, VII, 318.

2. Moore, *o. c.*, 47-48.

3. Willson, *America's Ambassadors to France*, 61.

Gouverneur Morris, a Federalist, was unsympathetic with republican France.

4. Moore, *o. c.*, 46.

tions[1], » was in a very confused and indefinite state in the early 19th century with regard to neutral rights. Events of the past hundred years had shown a neutral position to be practically untenable, due to the ever increasing encroachments of belligerents on neutral rights, resulting from an almost constant state of war[2]. In the 18th century, the geographical isolation of the Baltic countries of Russia, Denmark and Sweden had been the strongest factor in their ability to remain out of the general commercial struggles which marked the period. In 1780, during the American Revolution, they combined to form a League for the defense of neutral commercial rights, if need be, by arms[3]. But in 1793, Catherine of Russia had destroyed the League when, in her intense opposition to the French Revolution, she signed a convention with Great Britain on March 25, 1793, closing Russian ports against French commerce. Thus, the only united stand for neutral rights had failed before the United States appeared as the champion of a larger and more humane, and more clearly defined, interpretation of International Law in regard to neutrals in time of war.

The Law of Nations permitted to belligerents the exercise, then as now, of a peculiar jurisdiction over neutral commerce. Of the exercise of those just rights, theoretically recognized for the most part in the early 19th century, neutrals could not complain. But it was their abuse by the hostile powers, entailing infringement on the

1. Mahan, *Influence of Sea Power on French Revolution and Empire*, II, 284.
2. Davis, *Elements of International Law*, 468.
3. *Ibid.*, 233.

neutral rights of which America early constituted herself the defender, that exasperated the Americans as well as other neutrals. It was agreed that neutrals should not be permitted to trade with belligerents in articles of contraband[1]. But that brought up the age-long dispute over the exact nature of contraband. Grotius' division of all merchandise into absolute, provisional, and non-contraband was obviously inaquate. The inclusion of grain and raw materials as absolute contraband during the wars of the French Revolutionary and Napoleonic epoch was a great grievance of the Americans. On the score of interdicting her trade with the enemy in those, her principal products and means of prosperity, both England and France were fairly equal offenders against the American contention. Both nations declared that as it was impossible to tell whether food stuffs were intended for soldiers or civilians, it was lawful to seize such cargoes[2].

It was generally accepted in principle that trade could legally be forbidden with certain ports by an exercise of effective military force by a belligerent, known as blockade[3]. Contention for that principle's establishment as fact was to be one of the most important causes of the Anglo-American war of 1812. America contended, and was and is supported by all writers on International Law,

1. Davis, *o. c.*, 449.

2. Hammond, the British Minister in the United States in 1793, defended the inclusion of food stuffs in the list of absolute contraband on the ground that International Law permits starvation of the enemy. This interpretation has been largely accepted during recent years. Cf. R. Adams, *o. c.*, 47-48.

3. Davis, *o. c.*, 449.

that a blockade to be legal, must be effective,. and not merely a line on paper, exposing neutral ships to capture if searched on the high seas and found by their papers to be bound for a port, blockaded only by a proclamation. Both England and France were equal offenders against that principle and as will be seen, diplomatic factors not always honest, entered largely into the problem of the British Orders in Council and the French decrees of Berlin and Milan.

Another principle of International Law against the abuse of which the United States contended was the belligerent right of search [1]. That right involved permission to stop and search neutral merchantmen on the seas, to determine the nationality of the ship and goods, to ascertain whether they were carrying enemy's goods, contraband articles, or were destined for a port which had been actually and effectively blockaded. If a neutral were found to be breaking the Law of Nations, the belligerent might take the ship into port to be judged by a prize-court instituted by the municipal laws of such state [2]. Both Great Britain and France took many prizes which the United States had good reason to consider unjust. Particularly, she, from the earliest period, advocated the complete immunity, of private property, not contraband of war, from capture or destruction on the high seas in time of war [3]. Belligerent disregard of such principles brought new causes for irritation against both France and England.

1. Davis, *o. c.*, 449.
2. *Ibid.*, 368.
3. *Ibid.*, 359.

There was a derivative of the right of search which the English claimed to be legal, and which in the ultimate analysis was a leading cause[1] of the war of 1812. That derivative was the « right » of impressment. The exercise of that right has never received the sanction of International Law, although some few writers of the early nineteenth century defended it as legal[2]. The exercise of impressment bore with particular severity on American vessels, manned by seamen in general of the English race and speaking the English language. Great Britain maintained that her municipal statutes to the effect that British allegiance was inalienable gave to her the right to seize any British subjects[3] found aboard a neutral merchant vessel in the course of a search, and to press him into the service of the English navy. This practice was denied by the United States and that denial has been sustained by practically all writers on International Law. The argument was that impressment was a perversion of the belligerent right of search, since it was carried out by enforcing the British municipal law of allegiance, aboard a neutral vessel on the high seas, where only the measures of International Law are valid[4].

1. Cf. Madison's War Message, June 1, 1812. After the withdrawal of the Orders in Council, June 23, 1812, impressment remained the principal issue on which hostilities were continued.

2. Cf. Manning, *Law of Nations*, London, 1839.

3. In practice, some were taken who were actually British and who served under the American flag because of the better pay and conditions in that merchant marine than on British ships. But many more were taken who were actually American citizens, or naturalized by American municipal statutes. Cf. Zimmerman, *Impressment of American Seamen*, 273.

4. Zimmerman, *o. c.*, 249.

It is significant to recall in surveying the problem of the relative gravity of the offenses of Great Britain and France against the neutral contentions of the United States from 1793 to 1812 that, equal offenders as they were against most of those principles, the human element went a long way in turning public opinion against England when the moment came to defend her principles and national honour by arms. Impressment never constituted a vital problem with France. Obviously, the linguistic factor alone precluded any large scale impressment of Americans. The subject does not therefore figure largely in Franco-American Relations.

Given the fact that French, English and American[1] interpretations of International Law were so varying, it was not difficult to foresee that a middle course would be hard to steer in the impending maritime conflict which opened in 1793 with the United States a neutral, and eager to carry cargoes for both belligerents.

The first serious encounter of the United States as a neutral with the belligerents arose, as might have been expected, over a commercial point. France, on declaring war on England had opened her West Indian colonial trade to neutrals. Although in 1792, 1/10 of French commerce was carried by foreigners[2], the colonial trade had formerly been her monopoly[3]. She thus countenanced in time of war a commerce which she expressly

1. Cf. Madison to British Secretary for Foreign Affairs, Sept. 22, 1805. Statement of American conception of International Law in regard to Neutral rights. *Am. St. Ps., For. Rels.*, II, 734.

2. Mahan, *o. c.*, 264.

3. Mahan, *o. c,*, 234.

forbade in peace time. Great Britain protested, and made a treaty with Prussia[1], with a view to stopping the neutral trade with the French West Indies[2]. Her next move was to invoke an old and convenient policy by which such trade was declared illegal. The policy was known as the « Rule of 1756 ».

The « Rule » traced its origins to a system adopted by the belligerents in the Thirty Years War, but its definitive formula was not given until during the Seven Years War. It was understood to declare illegal a trade which, forbidden in time of peace, was permitted during a war.

The circumstances attending its formulation by England were these. In 1754, France possessed colonies in the West Indies. Trade with them she had always reserved to herself in accordance with general European usage. But when, during the war of 1754-1763, the French merchant marine and navy were swept from the seas by England, France decided to open her colonies to the neutral trade of the Dutch. England, fearing that that system would undermine her naval supremacy, declared the trade illegal, and seized the Dutch ships as if they had been English[3].

Following that precedent, the British Ministry issued an Order in Council on November 6, 1793, placing food stuffs on the list of absolute contraband and declaring

1. France retaliated with a Decree of May 9, 1793, authorizing French seizure of food stuffs and English private property aboard neutral vessels. American protest secured its revocation. *Am. St. Ps., For. Rels.*, I, 364-366.

2. *Cambridge Modern History*, VII, 318.

3. R. Adams, *o. c.*, 32.

that the trade which neutrals were carrying on between the French colonies and their mother country was illegal, and liable to seizure. American merchants were struck a severe blow, for, being near at hand, eager for the trade of the Islands, they had immediately taken advantage of the commerce opened to them.

English regulation of the commercial policies during her wars with France from 1793 to 1815 was characterized by the frequent use of the machinery of the Order in Council[1].

To understand what an Order in Council is, it is necessary to view rapidly the manner in which the administration of foreign relations is organized in the British Govèrnment.

In England, which is a constitutional monarchy, the original example of the Parliamentary system of government, the King is the nominal head in foreign as well as domestic affairs. But the Prime Minister, directly responsible to the House of Commons, although officially holding tenure from the King, is the real leader in shaping foreign and domestic policy. He chooses a Ministry, or heads for the various departments of administration. A Secretary for Foreign Affairs is directly charged with foreign correspondence, although the entire Ministry and the Prime Minister unite in determining foreign policy. Laws affecting such policy may be

1. Such an Order was first issued in the 18th century, and was the modern equivalent of the medieval Ordinance and Tudor and Stuart Proclamation. Orders in Council are still used, but only rarely, to regulate imperative matters after a sovereign's death and to meet local government crises etc.

recommended to and passed by Parliament, composed of the two Houses, of Lords and Commons, or the sovereign on the advice of the Privy Council, of which the Ministers are active members, may promulgate Orders in Council. Although issued on the strength of the royal prerogative, and theoretically independently of Parliament, they are issued in practice only on the advice of the Ministers of the Crown who are responsible to Parliament.

The most celebrated Orders in Council were those which had such far-reaching effect on the relations between England, the United States and France from 1806 to 1812. But already the policy of that period had been incorporated in the Order of November 6, 1793. That Order was relaxed, however, when neutral protest became imperative. An Order of January 8, 1794, replacing it, permitted neutrals to trade with French colonies, but not to carry their produce to France[1].

To avoid the working of the measure, the American shippers resorted to the expedient of the « broken voyage ». Bringing the French colonial products to America, they entered them at the customs and then transshipped them to France. Thus, as a direct trade between neutral and belligerent, the « broken voyage » was held to be legal by the United States unless the cargo were contraband, or unless the ship's papers showed the intention to try to run an effective blockade[2].

The legality of the expedient was considered acknowledged by the English, for in 1800, in the trial regarding

1. R. Adams, *o. c.*, 100.
2. *Ibid.*, 104-105.

the cargo aboard an American vessel, the *Polly*, Sir William Scott of the British Admiralty Court had declared that landing and paying duties on goods in a neutral country broke the voyage and legalized the trade[1]. American commerce continued on that theory until in 1805, when, in the case of the *Essex*, the *Polly* decision was set aside, and the new and troublesome dictum of ultimate destination established[2].

In view of recent grievances and a series of long-standing complaints, the United States determined to take steps toward a diplomatic adjustment with Great Britain. John Jay was sent to London accordingly[3]. A treaty was concluded on November 19, 1794, which, although ratified by the Senate in July 1795, secured little satisfaction for American grievances and particularly displeased the Republicans at home and the French Government abroad. There had been some hope in those circles, that, failing to secure a treaty of any kind, the United States would have gone to war with England[4]. The treaty, disappointing and inadequate as it was even in the opinion of its supporters, nevertheless served the commendable purpose of establishing practically undisturbed friendly relations with England until 1803. In spite of the fact that not a word was said therein with regard to the vital questions of impressment, restriction of the right of search or paper blockade, certain points of difference were settled. The posts on the Canadian

1. Channing, *The Jeffersonian System*, 176-177.
2. *Ibid.*, 197.
3. Pasquet, *o. c.*, I, 311.
4. *Ibid.*

border were to be surrendered to America and America was to pay the debts owing British merchants at the outbreak of the American Revolution. Damages, amounting to about $ 11,000,000 were to be paid by Great Britain for maritime captures under the Orders in Council of November, 1793, and the British West Indies were opened partially to American commerce[1].

French displeasure was not long in manifesting itself, when on July 2, 1796, the Executive Directory[2] issued a decree which announced the elements of the future Berlin and Milan decrees of Napoleon. It authorized French cruisers to deal with neutral shipping met upon the high seas, in the same manner in which such vessels permitted themselves to be treated by the English in so far as search, capture and confiscation were concerned[3]. There was inaugurated the particularly irritating and, to the United States, humiliating method of making respectful treatment of herself contingent upon her previous compliance with a dictate of a belligerent. Such became the characteristic of French and English maritime policy during the period 1806 to 1812. The seeds of the Continental System were sown.

1. *Documentary Source Book of American History*, Jay Treaty, pp. 244-258.

2. The first French Republic functioned under the Executive Directory (5 Directors) from October 27, 1795 to November 9, 1799. Foreign affairs were in the hands of the Directors and a Secretary for Foreign Affairs. Talleyrand filled the latter office after July, 1797. Legislative functions were in the hands of a *Conseil des Anciens* and a *Conseil des Cinq Cents*. Foreign policy was announced and carried out through *Decrees* issued by the Directors, and sanctioned by the Legislatures.

3. Moore, *o. c.*, 57.

Relations with the Directory went from bad to worse. James Monroe[1], who had been sent to succeed Gouverneur Morris as Minister in Paris, had, in his republican enthusiasm, painted to the French a too vivid picture of his country's desire to draw closer to France, and away from England. When, therefore, he was instructed by his government to explain satisfactorily to the Directors, Jay's arrangement with England, he failed signally to convince them that America was not acting in bad faith. In their revenge, they not only published the decree of July 2, 1796, but Adet, the French Minister in Washington, threatened war if the Federalist party, which had made the treaty with England, were not repudiated at the presidential election of November, 1796, and the Republican party placed in power[2]. But in spite of threats, the Federalists remained in power, with the election of John Adams as Washington's successor, and the rival Republican candidate, Thomas Jefferson as Vice President.

The already difficult relations with France were not improved by the election. The Directory refused to receive the new Minister, Charles Cotesworthy Pinckney, against whom the three grave charges existed, that he was by birth an aristocrat, by education an Englishman (for his youth had been passed at Oxford and the Middle Temple), and by political persuasion, a Federalist. On

1. Monroe was much under the influence of Thomas Paine, the English pamphleteer, whose *brochure*, « *Common Sense* », had had influence on the American Revolution. Paine lived at the Legation as an unofficial attaché, 1795-6. Willson, *o. c.*, 74.

2. *Cambridge Modern History*, VII, 320.

February 3, 1797, he was ordered to leave the country, permission to remain in Paris as a private citizen even being refused[1]. He retired thereupon to Amsterdam to await developments.

Adams, the new President, called upon Congress to place the country in a position of defense, but at the same time, sent John Marshall and Elbridge Gerry to act with Pinckney in endeavouring to secure a convention with the Directory, settling current disputes, but in no way engaging the United States to aid France in the war being waged. Having reached Paris on October 4, 1797, they were not received formally according to diplomatic usage by Talleyrand, Secretary of Foreign Affairs, but instead by three agents of the Directory who stipulated that before any steps could be taken toward arranging a treaty, three concessions must be made to France. Each of the Directors must be paid $ 50,000. Apologies were to be offered for portions of Adam's Congressional Message, offensive to the French government. An extorted Dutch loan must be bought by the United States at a face value of $ 1,000,000[2]. Compliance with the insulting conditions was refused by the American commission, and, entirely unsuccessful, the envoys returned to the United States. The documents which had been exchanged were published in America, and the names of the three French agents, Bellamy, Holtinguer and Hauteval were replaced by the letters, X, Y, and Z. Hence the designation commonly given the affair in History[3].

1. Willson, o. c., 79.
2. *Cambridge Modern History*, VII, 321.
3. Pasquet, o. c., I, 314.

The impression created in the United States when word of the unfortunate negociations was received, was highly detrimental to French interests. Demands for war with a nation which had offered insults and bribes to American agents mounted higher. For the first time in years party divisions were largely put aside in a general support of the measures of the Administration. The treaties existing between the two countries were abrogated by the United States by an Act of July 7, 1798[1]. A state of war existed until 1800 when the Treaty of Mortefontaine was arranged.

But the Directory did not want war with the United States, and as an evidence of a disposition toward conciliation it indicated to the American Minister at The Hague, William Van Murray, that Talleyrand was ready to reopen negociations[2]. In the face of a public demand for war, and an increasing volume of criticism which augured the downfall of the Federalist party, John Adams played the part of a courageous statesman in taking measures to establish peace between France and his unwilling country. Hastily, and without conference with his Cabinet, he sent to Congress the names of Van Murray, Oliver Ellsworth and William Davies, who were accordingly sanctioned as members of a commission to treat with France. They sailed in November, 1799.

It was not, however, the Directory which received them in April 1800, but Napoleon Bonaparte first Consul of France. The occasion was momentous. The first diplomatic exchange was about to take place with the

1. Tricoche, o. c., p. 294.
2. *Cambridge Modern History*, VII, 322.

man whose policies for the next fifteen years were to wield an incalculable influence on the history of the United States. During the Consulate from 1799-1802, the last vestiges of a republican machinery of government remained, to disappear, however, under the Consulate from 1802-1804, which became in reality an absolute monarchy receiving its definitive form as the Empire in 1804. Napoleon under each government, exercised direct control of Foreign Affairs. There was no Prime Minister or equivalent. Napoleon delegated powers of correspondence and conversation with foreign powers to a Secretary of Foreign Affairs, a Minister[1]. Initiative came theoretically from the Council of State and the Executive, but actually, Napoleon dictated every foreign policy. Projected decrees, treaties, etc., were drawn up by the competent minister at the order of Napoleon and were corrected by him. According to the Constitutions, the *Tribunat* deliberated on, and the *Corps Legislatif* passed the measures, promulgating them in Napoleon's name. The Senate passed on their legality. But since Napoleon held power of appointment and dismissal of all persons connected with that process, there was little danger of his policies' failing of acceptance.

An understanding of Napoleon's conceptions and ideas of the United States, as he began his diplomatic contacts, and throughout his career, would throw invaluable light upon his policy toward that country. It is unfortunately possible to reconstitute directly only a few

1. Under the Empire, Ministers became members of and voted in the *Conseil d'Etat.*

phases of those conceptions from the fragmentary evidence found in his own writings. Most of those, however, are posterior to his political career, and not only retrospective, but intended for the public eye. Diplomatic documents dictated, even drawn up in part by his own hand, furnish another source. But often phraseology masks the personal feeling. The larger part of insight into his ideas must be gleaned from his actions, or the remarks or observations of those who knew him, although it may scarcely be said that anyone *knew* him.

His interests and studies as a young man betray a curiosity and desire to know more of the history of Great Britain. That he had a knowledge of the significance, economic and political, of the thirteen colonies which became the United States, is certain from the fact that as a youth he read eagerly everything pertaining to England and her possessions. He early endeavoured to understand the fundamentals of government and administration, studying Antiquity in order to understand better the contemporary world in which he lived[1].

1. Frederic Masson writes of his interests, *Napoléon dans sa Jeunesse*, 194-5, « ... Il veut apprendre ce qu'est ce globe que l'homme habite et surtout quelles formes diverses ont prises les diverses sociétés que l'homme a organisées, quelles vicissitudes les empires et les républiques ont subies, qui les a gouvernés, quels rouages ont reçus leurs administrations, quelle part prenait au gouvernement le peuple, quelle la noblesse, de quelle façon était entendue l'hérédité monarchique. Il veut tout connaître des armées, des finances, du commerce... Il ne se contente pas de s'instruire de l'Antiquité... il veut aussi savoir ce que, en ce temps, tout le monde ignore, l'histoire de son temps... Ce qu'il cherche là, ce ne sont pas les secrets que la Gourdon met au service des débauchés, c'est d'où vient Necker, Terray, Turgot, où en est la marine de France et ce qu'on a dit au parlement d'Angleterre... »

Influenced in his youth by Raynal, his sympathies were with the American colonists in the Revolution, and he gave his approbation to the efforts of the newly established government. Chuquet writes[1],

« ... Napoléon applaudit aux efforts des provinces confédérées et il s'écrie dans les mêmes termes que Raynal : on partage les travaux de Washington, on jouit de ses triomphes, on le suit à deux mille lieues ; sa cause est celle de l'humanité. »

There is reason to believe that his proclamation of ten days mourning for the French army, following the death of Washington, although couched in terms befitting a public act, was more than a political gesture.

« Washington est mort. Ce grand homme s'est battu contre la tyrannie. Il a consolidé la liberté de sa patrie. Sa mémoire sera toujours chère au peuple français comme à tous les hommes libres des deux mondes[2] ».

Although the circumstances might justify doubts as to its sincerity, the toast which the First Consul proposed on the occasion of a dinner given by his brother Joseph at Mortefontaine to the American Commissioners in 1800, suggests that some vestige of his sympathy with republican ideas coloured his first diplomatic exchange with the United States.

« Aux Mânes des Français et des Américains morts sur le champ de bataille pour l'indépendance du Nouveau Monde »[3].

1. Chuquet, *La Jeunesse de Napoléon*, II, 21-22.
2. *Correspondance de Napoléon*, VI, 151, No. 4573, Feb. 7, 1799.
3. *Correspondance de Napoléon*, XXX, p. 560.
On the same occasion, the Consul Lebrun voiced the hope that

It seems fair, however, to deduce from the evidence of historical events that the interest and expediency of the moment always dominated Napoleon's diplomacy. A certain theoretical admiration which persisted with him for the American form of government, which at Sainte Hélène he spoke of as « d'une liberté toute particulière[1] », did not lead him to sympathy with its policies when they ran counter to his own. That peace with the United States was politic in 1800 is shown in a report which the Duc of Cadore, then Minister of Foreign Relations, made to Napoleon on February 19, 1810, summing up Franco-American relations from the Convention of Mortefontaine, September 30, 1800, to the period in which he was writing[2].

What ever the actuating motives, the impression created in the United States by the Treaty of Mortefontaine[3]

the United States would join the League of Armed Neutrality of 1800, which however, failed in 1801 with the withdrawal of Russia.

« A l'union de l'Amérique avec les puissances du Nord pour faire respecter la liberté des mers ».

1. Las Cases, II, *Mémorial de Sainte-Hélène*, part 2, p. 29.

2. Archives Nationales AF IV, 1681, A, Pièce C, 3815-50.

« Sire : la Convention signée le 8 Vendémiaire an IX entre la France et les États-Unis fut le premier traité conclu par le Gouvernement consulaire. Votre Majesté arrivait de Marengo moins occupée de poursuivre ses Victoires que d'éteindre le feu de la guerre. Elle ouvrit des négociations avec les États-Unis comme avec l'Autriche et avec l'Angleterre, et ses liens avec l'Amérique ayant été rétablis, M. Pichon fut envoyé aux États-Unis comme chargé d'affaires : M. Livingston vint en France comme Ministre Plénipotentiaire Américain... »

3. The Treaty reiterated the pricniple included in the Anglo-French treaty of Utrecht (1713) that « the flag covers the merchandise ». It also incorporated the principles of armed neutrality. England admitted neither of those principles in 1800.

Cf. Davis, *o. c.*, 394-395.

was favourable but short-lived. It agreed to a more humane interpretation of International Law, which gratified the Americans, although it was a meaningless gesture since Great Britain was not a party to the Convention. Although Napoleon refused to assume the claims of the United States for recent depredations on her commerce, the important and greatly desired concession was obtained that France would no longer exact the execution of the Treaty of Alliance of 1778[1].

Scarcely was news of the satisfactory diplomatic arrangement with the First Consul received in America, when information arrived that the day after signing the Treaty of Mortefontaine, Napoleon had forced the King of Spain to retrocede to France her lost province of Louisiana[2]. By gaining New Orleans and control of the Mississippi River, France had secured the key to the commerce of the Western part of the United States. That Napoleon was planning to restore the colonial empire of France seemed clear. Americans feared the establishment of a strong commercial nation like France in Louisiana far more than the presence of decadent Spain with whom the Pinckney Treaty[3] of 1795 had secured the « right of deposit » at New Orleans and the opening of the river to American trade. Consternation was general when on October 16, 1802, Don Juan Ventura, Spanish Intendant at New Orleans, ordered the withdrawal of the right of deposit. Immediately a great cry went up from the West

1. R. Adams, *o.c.*, 109.
2. Secret Treaty of San Ildefonso, October 1, 1800.
3. The treaty of San Lorenzo, signed at Madrid October 27, 1795 by Thomas Pinckney and Don Manuel de Godoy.

for war with France. It was generally believed that Napoleon had ordered the withdrawal[1]. But Thomas Jefferson, Republican, elected President in 1800 and thus overthrowing forever the predominant power of the Federalists, entered upon the first step of his foreign diplomacy with a plan other than war.

In his second Annual Message to Congress, the President said « ... The cession of the Spanish Province of Louisiana to France, which took place in the course of the late war, will, if carried into effect, make a change in the aspect of our foreign relations which will doubtless have just weight in any deliberations of the Legislature connected with that subject[2]... » He asked for, and secured from Congress, the sum of $ 10,000,000 to be used in negociations with France in an endeavor to purchase New Orleans and West Florida for the United States. But what was the surprise of the American commissioners, James Monroe and Robert Livingston, (the latter at Paris as Minister) when Napoleon offered them the whole of Louisiana, « with the limits which it had had when ceded by Spain in 1800 », for the sum of $ 14,500,000. Napoleon, whose genius lay in his opportunism, saw in the opening days of 1803 that the time for building up the cherished colonial empire had passed. General Leclerc's expedition, sent to establish a base in the French colony of San Domingo for colonial operations in Louisiana, had

1. Mahan, *o. c.*, II, 104.

French Government papers show that Spain was really guilty of the act, Napoleon being only indirectly connected.

Cf. H. Adams, *History of the United States*, I, 419.

2. Richardson, *Messages and Papers of the Presidents*, I, 342.

failed in 1802. Napoleon had ordered the destruction of the power of Toussaint l'Ouverture, a negro, who, having brought order from the confusion of slave insurrection on the island during the French Revolution, was made governor-in-chief of San Domingo in May, 1797. But the « Black Napoleon », as he has been called, had virtually assumed complete power, and had even made war on Spain, France's ally, in seizing that western end of the island which belonged to her. Although by trickery and betrayal, Toussaint was captured and French rule restored in French San Domingo, Leclerc's success was short-lived. He and most of his men died of the yellow fever and the expedition which was to have secured possession of Louisiana came to nothing[1].

More important still in deciding Napoleon to sell Louisiana[2] were the signs evident to both French and English observers, that the peace of Amiens (1802) could not long survive the constantly increasing strain of European relations.

The American commissioners, overstepping their instructions, which authorized them to go only as high as $ 10,000,000 to gain possession of New Orleans and West Florida, but convinced that they were acting for the best interests of their country, agreed to Napoleon's bargain. A treaty, dated April 30, 1803, provided for the cession of Louisiana with the boundaries that it had

1. Cf. H. Adams, *o. c.*, I, 377-398.

2. Napoleon wrote to his Plenipotentiary, Barbé-Marbois : « dans nos mains la Louisiane est perdue; mais dans celles des Américains elle sera utile. »

Levasseur, *Histoire du Commerce de la France*, II, 70.

had when ceded to France[1]. The ambiguous wording as to boundaries gave rise to the problem of the possession of the Floridas. Were they included in the cession? Napoleon left the point obscure. Throughout the next decade, it gave him a hold over the United States. He sought by continuing uncertainty, to hold an influential hand over their foreign policy[2].

It was not so much the great expenditure of money which troubled the economical Jeffersonian administration when news of the purchase reached Washington, nor had the troublesome aspects of the treaty's uncertainties yet been remarked. It was rather the constitutional aspects of the tremendous territorial addition to the United States which embarrassed the leader of the strict constructionist party. Nowhere did the Constitution provide for the addition of lands to the national domain. But so obviously was it desirable to extend the country westward and to prevent either France or England from gaining a foothold in Louisiana, that doubts and criticisms which arose, were overcome in the compromise with logic and the almost universal acclaim of the greatest achievement of Jefferson's first Administration[3].

At a moment when all was apparently propitious for the United States, when diplomatic agreements had largely settled foreign disputes and domestic prosperity was

1. *Documentary Source Book*, 279-280.

2. Americans claimed to have bought West Florida as far as the Perdido River with Louisiana. Spain, irritated that Napoleon had sold a domain to which he had only questionable titles and which he had agreed never to sell, denied that West Florida had been included in the cession of 1800.

3. Channing, *o. c.*, 75.

increasing, events occurred in Europe which threatened to destroy that well-being. The Peace of Amiens was broken in May, 1803. The great European conflict which was precipitated caught the United States between the belligerent forces of France and England, and led her, in her endeavour to sustain her position as an independent nation, to take issue with one of them.

So far the foreign policy of the United States had been closely influenced by French and English measures, for diplomacy arises from the interplay of cause and effect. But her action had been independent. If she had protested against the British Orders it was not because the French Government had dictated it, but because her own best interests demanded it. France, equally aggressive, had received her just due of remonstrance, but not because George III required it. The first diplomatic exchanges with Bonaparte had seemed highly favorable to America. It appeared that the way was opening for the success of her neutral diplomacy. She did not see the Convention of 1800 and the Louisiana purchase for what they were, examples of the opportunism of a man who, when the time should come thereafter, could disregard the principles of the one, when they interfered with the execution of his Continental system, or take advantage of the inexact wording of the other to attempt to « influence » a nation into a war with his enemy.

CHAPTER II

Establishment of the Continental Blockade Influence on American Foreign Relations, 1803-1809.

> « ' ... le privilège des Neutres. Nous avons à cet égard, ' ajouta M. Jefferson, ' des principes dont nous ne nous départirons jamais, notre peuple commerce partout et partout sa neutralité doit être respectée. D'un autre côté nous ne voulons pas la guerre... et tout cela est fort embarrassant. '
>
> « Si Votre Excellence ne connaissait pas déjà l'homme et son gouvernement, cette dernière phrase lui suffirait pour juger l'un et l'autre. »
>
> TURREAU [1].

An examination of the period from the rupture of the Peace of Amiens to March 1, 1809, reveals the comparatively favourable economic and political situation of the relations of the United States with France and England until 1805. In that year occurred the events which augured the change in that fortunate condition, and the establishment of the Continental Blockade in 1806. That system, developed by the hostile commercial measures of France and England, was intended by each to prepare the political destruction of the other by effecting economic ruin. The fact that the burden of those measures fell on neutral carriers, of which the United States was almost the only one remaining, brought the relations of

1. Turreau to Talleyrand, Washington, Jan. 20, 1806. Arch. Aff. Ét. Corr. Dip., É.-U., 59, f° 5, deciphered.

that country to a crisis with both of the belligerents. The years from 1807 until 1809 were marked by the experiment of the Jeffersonian policy of « peaceful coercion » in the face of the Continental Blockade, and in spite of Napoleonic efforts to manipulate a misunderstanding between the United States and England. Nor was the latter above intriguing for a similar state of affairs between the United States and France. The passing of the Non-Intercourse Act by Congress on March 1, 1809, marked the beginning of the end of the peaceful attempt on the part of America to defend her neutral commercial rights.

The forecast of the early months of the year 1803 was realized when in April the European conflict reopened with the declaration of war by England against France as the signal. The Peace of Amiens had been a flimsy makeshift at best, and both parties had failed to fulfill their obligations under it. The brief respite had sufficed for Napoleon to extend his power by establishing himself as President of the Italian Republic. Contrary to treaty stipulations he held Cape Town and Holland. Great Britain was alarmed by his possession of Louisiana, but even more so by his covetous glances toward the Orient and the rich lands of Egypt and India. The failure of the Louisiana venture served only to sharpen Napoleon's desire to establish an Eastern colonial Empire. It was clear that a state of war would best suit his ambitious designs. The fire of English alarm burst into flame when the report of Sebastiani, whom Napoleon had sent to look over the situation in the Orient, was published in the official *Moniteur*. His sentence, « 6,000 Français suffi-

raient pour reprendre l'Égypte, » was received in England as a provocation and a menace. The Treaty of Amiens had provided that the English should surrender the Island of Malta to the Knights of Saint John. That island, however, small as it was, held the key to the Mediterranean and the East, and the English refused to give it up. Napoleon had forced her into the position which he desired, for England appeared the aggressor by her act of declaring war in April, 1803[1].

The return to war in Europe in 1803 reopened to American carriers the coveted trade with the French and English West Indian colonies and Europe, which they believed to be legal under the *Polly* decision. The curve of American trade rose rapidly[2]. Tonnage of American vessels, amounting to 128,893 in 1789 had in 1805 reached 922,298. American imports which had amounted to $ 20,000,000 in the year of the foundation of the federal government had risen in 1805 to $ 77,000,000 while exports, many of which included West Indian importations, reëxported to Europe, mounted from $ 23,000,000 in 1789 to $ 80,000,000 in 1805[3]. The latter figure represented $ 23,047,386 worth of exportation to England and $ 21,072,747 to France[4]. Nine-tenths of that lucrative American trade was being carried on in American ships. But American impunity was short lived, being attacked first by a British Admiralty decision in 1805, by French

1. *Cambridge History of British Foreign Policy*. Ward and Gooch, eds. I, 312-315.
2. R. Adams, *o. c.*, 117.
3. Muzzey, *o. c.*, I, 232-233.
4. *American State Papers. Commerce and Navigation*, I, Exports from U. S.

and British commercial Decrees and Orders constituting the Continental Blockade, in 1806 and thereafter, and by her own national policy of Embargo, adopted in 1806.

In July 1805, the British Court of Appeals in Prize Cases, highest maritime court of the realm, condemned an American ship, the *Essex* and declared the « broken voyage » to be illegal, the « ultimate destination » of a cargo being the only point to consider in determining a ship's status. The *Essex* had taken a cargo at Barcelona, had been repaired at Salem, Massachusetts, had there paid duties, and then, laden with the same cargo was on its way to Havana when captured by the British. The decision, being accepted by the English Lords Commissioners, laid down the rule of conduct toward neutral carriers.

The news received in the United States threw the commercial world there into a state of consternation. Congress which met in December was called upon to retaliate. But before considering the measures which were to be taken, it is significant to examine the nature of the political organisation of the country during the period and to see what men were entrusted with the administration of public policy.

The presidential election of 1800 had been violent and revolutionary. The Federalist party was at last overthrown after the unpopular Administration of John Adams, to give place to a Republican President and Congress. The election of Jefferson led to the inauguration of a changed domestic and foreign policy which may properly be called the « Jeffersonian system », so impregnated was it by the personality of the man. He was an idealist aud philosopher who applied his theories

to life. His physiocratic leanings constantly influenced his policies, when, as President, he was confronted with the problem of guiding the United States through the commercial wars carried on by the nations of Europe. Himself a great land owner, possessing the estate of Monticello in Virginia, his interests and persuasions were inclined toward those of the agricultural Republicans. Believing agriculture to be the real foundation of the national prosperity, not manufactures or commerce, he was never ready to plunge the nation into a war to protect Federalist capitalists[1].

He was haunted throughout his Presidency by the Anglophile Federalist charges of his being and acting under French influence. To the successor of his choice, James Madison, he left as a heritage the Federalist dogma that a Republican Administration meant a Francophile Administration. Since an examination of the extent of the truth of that charge constitutes a major part of the question under consideration, it is interesting to have from so observing and informed a pen as that of John Quincy Adams the account of a conversation with Jefferson on the subject in 1804, near the time of Napoleons's becoming Emperor[2]. It is true that as a younger man, and

1. R. Adams, *o. c.*, 117.

2. *Diary of John Quincy Adams*, Nevins, ed., p. 25.

Adams, writing of a dinner given by the President on November 23, 1804, says : « ... Mr. Jefferson then turned the conversation towards the French Revolution and remarked how *contrary to all expectation* this great *bouleversement* had turned out. It seemed as if everything in that country for the last twelve or fifteen years had been a Dream; and who could have imagined that such an *ébranlement* would have come to this. He thought it very much to be wished

especially during the French Revolution's early stages, Jefferson had been an admirer and practitioner of the theories of the philosophers of the 18th century and had had correspondence and association with the *Idéologues*. But France, under Napoleon's hand, had changed, and no longer excited his admiration as a land of liberty. Indeed, it appears from the events of his Administration that it was not that he loved France more but that he loved England less. His true policy was neither decidedly pro nor con either one or the other of the great belligerents, but rather, his ideal was, as Washington's had been, to establish the independence of the United States, free from the dictates of both of them. To maintain the position of neutrality, however, Jefferson went a step further, inaugurating his policy of « peaceful coercion », the most original feature of his statesmanship. Whether it worked or failed, he made a valuable contribution to international philosophy by practising one of its humanitarian theories.

« ... Peace is our passion, » he wrote, « and wrongs might drive us from it. We prefer trying *every* other just principle, right and safety, before we would recur to war...[1]. »

that they could now return to the Constitution of 1789, and call back *the Old Family*. For although by that Constitution the government was much too weak, and although it was defective in having a Legislature in only one branch, yet even thus, it was better than the present form, where it was impossible to perceive any *limits*. I have used as near as possible his very words, for this is one of the most unexpected phases in the waxing and waning opinions of this gentleman concerning the French Revolution... »

1. Jefferson, *Works*, IV, 490, quoted by H. Adams, *o. c.*, I, 446. To Sir John Sinclair, June 30, 1803.

The ordering of domestic affairs and the purchase of Louisiana had been the chief accomplishments of Jefferson's first term (1801-1805). But the early months of his second Administration (1805-1809) foreshadowed the dark days ahead when the policies and intrigues of the European belligerents would not only render peaceful coercion untenable, but when those same policies would arouse such domestic dissensions as to menace with dissolution « the cement which binds the union. »

Congress, which met in the winter of 1805-6, was first faced with the problem of dealing with the *Essex* decision and of indicating the path to be followed in order to bring England to justice. In April, 1806, a Non-Intercourse Act was passed prohibiting the importation of such British articles as were obtainable in the United States or elsewhere, as hemp, flax, glass, brass, etc...[1]. It was the first move in executing Jefferson's theory. John Quincy Adams commented in that connection, after a conversation with Madison, Jefferson's Secretary of State, on February 13, 1806 :

« ... In the evening I went with the ladies to a party at Mr. Madison's... I had considerable conversation with [him] on the subject now most important to the public. His system of proceeding towards Great Britain is to establish permanent commercial distinctions between her and other nations — a retaliating navigation act; and aggravated duties on articles imported from her. This is doubtless the President's favorite policy...[2] ».

1. Laws of the United States VIII, 80 (1 Sess. of 9 Cong. Chap. XXIX), cited by Channing, *o. c.*, 203.

2. *Diary* of J. Q. Adams, 39.

The same Congress sanctioned in April, 1806, the appointment of James Monroe, already in England as American Minister, and of William Pinkney as Commissioners[1] to negociate with England for a treaty to replace the expiring Jay arrangement. They were instructed tose cure from England a restoration of the West Indian trade to the footing of 1801, to secure payment of indemnities for captures under the *Essex* decision and to obtain British agreement to abandon the practice of impressment. The negociations were continued until 1807, and as will be seen, were profoundly influenced by the course of events in the relations betwen America, France, and England.

As a satisfaction to legitimate French protest, a Bill was passed on February 28, 1806, forbidding commercial relations between the United States and the still insurgent regions of the island of San Domingo.

The problem of the possession of West Florida arose also during the session of Congress in the winter of 1805-6. It was one of Jefferson's greatest political desires that that land should be part of the United States, and he claimed it in 1805 as having been part of the Louisiana purchase in 1803[2]. Spain declared that it had not been included in the sale. Jefferson went so far as to threaten Spain with war in his Message of December 2, 1805 and to instruct the American Minister at Paris, John Armstrong, to bring pressure to bear on Napoleon to force his ally, Spain, to cede the Floridas. He failed, but the Florida

1. Richardson, *Messages and Papers*, I, 420.

2. Cox, *American Intervention in West Florida*. Am. Hist. Rev. XVII, 290-311. Jan. 1912.

question was far from settled and appeared again in 1807.

In studying the subsequent relations between France and the United States it is important to know something of the Ministers who represented those governments in Paris and Washington respectively. A study of their diplomatic correspondence offers much insight not only into the affairs of the period, but into personalities of the time. In the early 19th century communications were slow and uncertain. Often months elapsed between instructions or reports. From that fact there naturally developed a far more personal type of diplomacy than exists now when there is every facility for communication among nations in all parts of the world. Instructions from the home government were full, and expressed as clearly as possible the policy to be pursued. Reports were designed to give accounts of the progress of business between the two governments, and to acquaint the one at home with general conditions, the characters of the statesmen with whom one had to deal and even with speculations as to future contingencies which might arise. When, as often occurred, a situation had so changed as to make the only instructions on hand inapplicable, the Minister was obliged to temporize until new ones arrived, thus delaying important negociations.

John Armstrong succeeded Robert Livingston as American Minister in Paris from 1804 to 1810. His appointment was one of favoritism, for he was the brother-in-law of Livingston, who asked Jefferson to appoint him as his successor[1]. He had been born in Pennsylvania in 1758,

1. Willson, o. c., 93.

had served in the Revolutionary War, receiving the rank of Major in 1783, and from 1800 to 1804 was a United States Senator. What with his inadequate diplomatic background and the fact of his being « a pleasant mannered, somewhat ineffectual gentleman[1] » he was not a happy choice to deal with two of the most astute men of any age, namely Napoleon and Talleyrand. It is not surprising, therefore, that his six year mission accomplished little in the way of securing America's interests when they were opposed by those of France. But it is fair to say that it would have been difficult for the cleverest American diplomat of any period to have made headway against the tremendous odds confronting him in Paris between 1804 and 1810. He was further handicapped by his imperfect knowledge of French, which gave Napoleon frequent cause for complaint. The Emperor wrote to his Secretary of Foreign Affairs in 1810, when Franco-American affairs were nearing a crisis :

« ... Il faut que vous voyiez le Ministre d'Amérique. Il est par trop ridicule qu'il écrive des choses qu'on ne comprend pas. Je préfère qu'il écrive en anglais, mais longuement et de manière que nous comprenions... Parlez au Secrétaire qui est ici, parlez aussi au Secrétaire qui arrive d'Amérique, pour faire comprendre que ce gouvernement n'est pas représenté ici ; que son Ministre ne sait pas le français, est un homme morose avec lequel on ne peut pas traiter ; que tous les obstacles seraient levés si l'on avait ici un envoyé à qui parler... Ecrivez en Amérique de manière que le Président puisse savoir quel imbécile on a envoyé ici...[2] »

1. Willson, *o. c.*, 93.

2. *Correspondance de Napoléon*, XX, No. 16147, pp. 152-3. Napoleon to Champagny, January 19, 1810.

Even his English style lacked, according to Jefferson, the clarity necessary to satisfy his own government. The President said of him that he wrote « so much in the buskin, that he cannot give a naked fact in an intelligible form.[1] »

It would appear, however, that no matter what finesse of style he lacked, he was not unobservant of affairs and men. The following account of his first presentation to Napoleon indicates that he was early aware of the delicacy of his problem of keeping the balance between French and American exigencies. His apologetic admission of his having delivered a « complimentary address » to Napoleon on becoming Emperor indicates further that he felt or knew Jefferson's Administration not to be very sympathetic with the French Empire :

« A few days after the date of my last letter (the 12 Nov.) I was admitted to a private audience of the Emperor. During this interview, I presented my credentials, and with them, a short complimentary address on the recent elevation of his Majesty. I am not sure that in this first step, I shall have given all the satisfaction I could wish. On your side of the Atlantic it may be supposed that I have gone too far, while on this it is thought that I have not gone far enough. My own judgment was regulated by considerations not easily associated : a decent accommodation to the feverish sensibility of this Government, and a becoming respect for the political sentiment of our own. If therefore I have but approached these objects, I have done all that I expected, and perhaps, all that was possible...[2] »

1. Quoted by H. Adams, *o. c.*, IV, 307.

2. MSS. State Dept., Dsps., France 10. Armstrong to Madison, December 24, 1804.

That Armstrong well understood the psychology of Napoleon and of the French nation under his spell, is interestingly shown in a letter to Madison written August 10, 1805. He described the elaborate and extensive plans being made against Napoleon by the Third Coalition, and summed up in a paragraph, a penetrating estimate of the Emperor and his people in their war aims[1] :

« ... These are preparations worthy of an Alexander and ... would appal any man but Bonaparte and any nation but France. To this extraordinary man and more extraordinary people, they but appear as sources of new achievements, new glories and a wider range of spoil and domination, nor are there wanting among them, men otherwise sober and enlightened, who consider the contest on which they are about to enter, as designed to verify the dreams of Lewis the 14, and to render Bonaparte as absolute over every part of Europe as he now is in the city of Paris. A fact highly propitious to this ambition is, that every Frenchman identifies his chief and himself, and feels as proud under any new circumstances of aggrandizement to his Emperor, as if he himself were loaded with crowns and laurels. »

Perhaps Napoleon was aware of Armstrong's accurate conception of himself and his ambitions. Perhaps that knowledge contributed to the Emperor's distrust and dissatisfaction with the « *imbécile* ».

Napoleon's Minister to the United States from 1804 to 1811 was General Louis-Marie Turreau de Garambouville, born at Evreux in 1756, officer in the French Revolution, present at the battle of Marengo, and Military Governor

1. MSS. State Dept., Dsps., France 10. Armstrong to Madison, August 10, 1805.

of Piedmont in 1804. When Napoleon became Emperor, Turreau was among the opposing generals. He was sent in that same year as Minister to the United States, whether or not as if into a sort of exile in that distant land. That he served France to the best of his ability during his ministry is incontestable, but the fact that he lacked the qualities of tact and ability to understand the temper of the people among whom he had been sent, explains in part his failure to accomplish a great deal diplomatically. More than that, his government allowed him little occasion for truly conciliatory negociations.

An extract from a latter of Turreau to the Minister of Foreign Relations written on November 3, 1806, is interesting, first, as indicating indirectly that the apparent unimportance of the American Mission had prevented the French Government from furnishing sufficient means to its Minister to keep up the appearances which he found necessary on his arrival, especially as he himself had little private fortune. Secondly, his reference to the Americans as a « *peuple boutiquier* » is indicative of a sort of contempt. The expression was freely used in France during the period in regard to England. He wrote :

« ... Ici, Monseigneur, je l'ai déjà éprouvé en maintes circonstances du plus haut intérêt, le défaut de moyens pécuniaires est un obstacle invincible et permanent contre toute espèce d'opération importante... Et votre Excellence jugera combien cette pénurie d'argent et de crédit se fait sentir dans les circonstances chez un peuple Boutiquier et qui ne sera jamais que cela, si on le laisse à lui-même...[1]. »

1. Arch. Aff. Ét., Corr. Dip., É.-U., 59. Turreau to Talleyrand, November 3, 1806.

John Quincy Adams records an enlightening detail regarding the republican Jefferson's reaction on the occasion of the presentation of the French Minister on November 23, 1804 :

« ... Dined with the President... I had a good deal of conversation with [him]. The French Minister just arrived had been this day first presented to him, and appears to have displeased him by the profusion of gold lace on his clothes. He says they must get him down to a plain frock coat, or the boys in the street will run after him as a sight. I asked if he had brought his *Imperial* Credentials, and was answered he had[1]. »

That Turreau did not enjoy the full confidence of Napoleon is clear from a letter from the Emperor to Champagny on January 10, 1810. That the chief cause of his dissatisfaction with the Minister was evidently his lack of docility is interestingly indicated, and furnishes one example of the many that exist of Napoleon's requirement that all his public servants should be his puppets :

« ... Ayant peu de confiance en Turreau, qui, d'ailleurs, a quitté la France depuis longtemps, je désire changer la légation, ou du moins envoyer en Amérique un homme de confiance qui connaisse mes intentions et qui soit assez adroit pour donner l'impulsion convenable aux affaires importantes dont je voudrais le charger...[2]. »

It is significant that Napoleon's criticism of both the French and American Ministers came at practically the same moment in January 1810, a forecast that he was

1. *Diary* of J. Q. Adams, 24.
2. *Correspondance de Napoléon*, XX, No. 16127, p. 126, Napoleon to Champagny, January 10, 1810.

going to pursue a changed and more vigorous policy. But meanwhile the situation between France and America became very difficult as the months of 1805 and 1806 passed.

The year 1805, had already witnessed the striking of a severe blow at neutral carriers in the *Essex* decision. Although England was the chief aggressor against American commerce, France also figured as a cause of losses by capture. A memorial of the merchants of Newburyport, Massachussetts, to the Secretary of State protested against losses to shipping insured by insurance-offices in Philadelphia alone between 1803-1805. While the figures show both English and French aggressions, it is not difficult to understand why England with her *Essex* decision appeared the greater offender :

Losses by British capture, 1803-1805, $ 1,070,181.
Losses by French capture, 1803-1805, $ 67,900.[1]

But the year 1805 saw also the events which prepared the adoption by both England and France of those commercial measures which, leading to the establishment of the Continental Blockade, reached the excess of declaring and practising the doctrine that Neutrality no longer existed. British Orders in Council and Napoleon's Decrees, ostensibly striking at each other, actually dealt the severest blow to maritime Neutrals and more especially to the United States, the sole remaining one after 1807. The elements of the whole problem under consideration now present themselves, involving an *exposé* of

1. *American State Papers. Foreign Relations*, II, 742-746.

the nature of the Continental Blockade, a tracing of its development step by step, with an examination of the effets of both the French and English policies on American economics and politics, and an analysis of the influence attempted or actually exerted by Napoleon in the American reaction.

The great naval victory of England over the combined French and Spanish fleets at Trafalgar on October 21, 1805, left England secure in her position as Mistress of the Seas. Napoleon's equally brilliant victory over the forces of the third Coalition (England, Austria, Russia, and Sweden) at Austerlitz on December 2, 1805, assured French domination on the Continent. The two great rivals could not therefore, cross swords on land or sea for lack of common weapons. From that fact arose the policy of striking at the roots of the economic well-being of each other, of destroying each other commercially as a prelude to military and political destruction. As has been seen, the idea had had its first exercise during the French Revolutionary wars, and had been more particularly foreshadowed by the measures of the Directory.

Napoleon's policy consisted in its general outlines in closing the Continent of Europe to English produce and furthermore, in forbidding the carrying of colonial or continental produce to England. The English policy consisted similarly in closing English markets to continental goods, and in forbidding the entry or departure of any cargoes from France unless duties had been paid on them in England. Both of their mutually exclusive policies were to be executed by means of the irritating and unsanctioned « paper blockade ».

The great aim of Napoleon of drawing all Europe under French influence appeared a necessity to him after 1805, he believing that the only way to defeat England would be to present to her commerce a tightly closed continental door. One of the first important steps which he took in that direction was the signing on February 15, 1806, of a treaty with Prussia. The latter was to gain, with Napoleon's aid, the electorate of Hanover, private domain of the English Kings, on condition that Prussia would close her coastline to English trade.[1].

England, angered by Prussia's betrayal under French influence and by the failure of peace *pourparlers* begun in March, 1806[2], retaliated with an Order in Council of May 16, 1806, blockading the continental coastline between the Elbe and Brest. The blockade was effective only between Le Havre and Ostend, leaving the ports on either side blockaded merely on paper. The tone of the commercial warfare was thus sounded in which neither France nor England would heed the bounds of international law nor America's protests in its name or in that of Neutral rights[3].

Armstrong saw clearly the tendencies of the hour when he wrote to Madison on March 26, 1806, that the ports of Europe were to be closed against Great Britain :

« ... She is to be insulted politically and commercially, and it will be well if in the ardor of the experiment any of the present neutral powers will be permitted... to hold correspondence with her... Between the two principles,

1. *Cambridge History of British Foreign Policy*, I, 349.
2. Bourgeois, *Manuel Historique de Politique Étrangère*, II, 267.
3. R. Adams, *o. c.*, 115.

the exclusion of the French and the Blockading system of the British our commerce will be in a pretty situation[1]. »

The same letter said that news of the Non-Intercourse Act, pending against Great Britain in Congress, excited in France « many public and private compliments on the spirit, wisdom, and good faith of the United States. »

Thus early did the opportunist Napoleon seek to give rise to the supposition, at once hateful and derogatory to the Republican Administration's prestige, and eagerly seized upon by the Federalist opposition as grounds for their charge of « French influence », that measures inimical to Great Britain, were, if not openly the result of French dictation, at least indicative of America's preservation of some mysterious and ill-defined « good faith » with France.

Napoleon's failure to make good his promise regarding Hanover, drove Frederick William of Prussia into the Fourth Coalition against France, made up of the powers of England, Russia and Prussia. Napoleon defeated the latter at the double battle of Auerstaedt and and Jena on October 14, 1806, and in November, entered Berlin in triumph. From the Imperial Camp there, confident in his tremendous power over the Continent which extended from Venice to Hamburg, and after the Treaties of Tilsitt (July 7-9, 1807,) from Italy to Russia, he determined to strike a vital blow at England and her com-

1. MSS. State Dept., Dsps., France 10.
Armstrong to Madison, March 26, 1806, Deciphered.

merce in accordance with his scheme of economic destruction of the enemy.

On November 21, 1806, Napoleon promulgated the Berlin Decree. It declared that, since England did not recognize the principles of International Law regarding private property[1], since she had declared paper blockades the whole policy having as the end in view, the destruction of continental commerce and industry, the only course left open was that of reprisals. Therefore, the British Isles were declared in a state of blockade, all correspondence between the Continent and Great Britain was forbidden, and all subjects of that nation found in France or the countries occupied by France should be made prisoners of war. All English merchandise, whether from her colonies or the British Isles, was good prize, and one half of the proceeds of all confiscations made under that provision were to be used to indemnify merchants for losses inflicted by British cruisers.

« ... Les dispositions du présent décret seront constamment considérées comme principe fondamental de l'Empire jusqu'à ce que l'Angleterre ait reconnu que le droit de la guerre est un et le même sur terre et sur mer... et que le droit de blocus doit être restreint aux places fortes réellement investies par des forces suffisantes[2]... »

Napoleon sent orders to Talleyrand to send the decree to Germany, Holland, (where he had made his brother

1. The prohibition of the capture of private property at sea in time of war has long been urged but never adopted by international agreement; cf. Moore, *o. c.*, 61.

2. *Correspondance de Napoléon*, XIII, 11283. *Berlin decree*, Nov. 21, 1806.

Louis, King, in 1805) Spain and Naples with orders that it be strictly enforced. In a message to the French Senate sent from Berlin on November 19, 1806, announcing the principles contained in the Berlin decree, he reiterated the idea so often repeated that, desiring as he did that « *paix générale* » which was his goal, it could be but partial and temporary until England could be forced to accept the interpretations of International Law that he put thereon[1].

There again and more significantly, the opportunism of Napoleon showed itself in his relations with America. Since the United States, as a neutral, advocated the same principles of International justice which his maritime weakness as a belligerent dictated as being desirable, that circumstance contributed to the apparent affinity of the desires of the two governments in their protests against English policy. But Napoleon, knowing as well as the American Administration, that their apparently identical aims led to different ends, nevertheless played throughout the next six years on the theory that similarity of principle meant similarity of objective, and endeavoured to indicate that every hostile American measure against England was taken with his approval. As will be seen from 1806 until 1812, Napoleon increasingly endeavoured to influence America to make common cause against England, but when the moment of America's declaration of war came in 1812, it was not as a member of Napoleon's group of satellites, combined to drive

1. *Correspondance de Napoléon*, XIII, 11281. *Message au Sénat*, Nov. 19, 1806.

England from her position as Mistress of the Seas and to elevate France in her stead, but as an outraged Neutral endeavouring to bring to the paths of justice that strongest, and therefore arbitrary, dictator of maritime law, whose policies exceeded in practice but not in theory the aggressions of France herself. Napoleon instituted as reprisals the same principles which he would have had no greater scrupules than Great Britain in initiating, had he had her superior naval force.

The United States soon learned that neutral rights could look no more to Napoleon for defense than to Great Britain. Armstrong addressed a note to Decrès, the Minister of the Marine, asking for an official interpretation of the Decree of November 21, 1806 as it would affect Neutrals[1]. He received an ambiguous reply with, however, Decrès' statement that as yet the Decree had not been interpreted as modifying the Convention of September 30, 1800[2]. But American immunity was not to last long. In the summer of 1807, an American vessel, the *Horizon*, had been wrecked off Morlaix, and what was left of her cargo was seized by French officers. The *Horizon* had previously been captured by an English frigate. She had been taken into England, her cargo confiscated, but was herself liberated. She was loaded there with a cargo partly composed of English goods and was on her way to Lisbon when wrecked and seized by the French. An unexpected and unjustifiably hostile decision of the

1. *American State Papers, Foreign Relations*, II, 805. Armstrong to Decrès, December 10, 1806.

2. *American State Papers, Foreign Relations*, II, 805. Decrès to Armstrong.

Council of Prizes did much to alarm Americans and show them that they were no more to escape the execution of the French Decrees than of the English Orders. As much of her cargo as could be saved was ordered sold, and the proceeds from the sale of that part of it which was English, were to be appropriated by the French government as provided by the Berlin Decree. Since the Council admitted the neutrality of the ship and cargo, and as in that case, under the Convention of 1800, the flag should have covered the merchandise, the execution of the Berlin Decree was plain enough warning that the principle expressed in the Convention was no longer to be recognized.

Armstrong protested[1], but was informed by the Minister of Exterior Relations that since American vessels suffered themselves to be searched by the English they were good prize under the Berlin Decree. The reply came from Champagny, Duc de Cadore, the successor of Talleyrand, whom Napoleon had removed and made Vice-Grand-Elector. The principal recommendation to Napoleon of his new Minister was that, whereas he had not the talent of Talleyrand, he was « plus complaisant, moins faiseur de plans, plus rédacteur à la consigne[2]. »

The *Horizon* case was but the beginning of French encroachments on neutral rights under the Berlin Decree. But since British cruisers filled the seas in far greater numbers than the French, it was natural that greater hardships should be inflicted on neutral shipping by the

1. MSS. State Dept., Dsps., France 10. Armstrong to Champagny, August 21, 1807.

2. Sorel, *L'Europe et la Révolution française*, VII, 193.

former than the latter. The difficulties of capturing shipping at sea, due to his small naval force, led to Napoleon's practice of seizing American ships in French harbours under various pretexts. One of the methods most frequently resorted to was that whereby cargoes not accompanied by certificates of origin issued by French Consular authorities of France and required by Napoleon, were liable to confiscation. But equally often cargoes covered by certificates were confiscated under the argument that the certificate did not properly cover the cargoes specified. The uncertainties facing American shippers were evidently many.

Armstrong wrote in a protest to Champagny :

« ... From a comparison of these two sets of cases it would appear that ... it is only when a cargo is found without a consular certificate, that such certificate becomes a document of any use or authority... [1] ».

Meanwhile, American relations with England were hardly more favourable. Negotiations to replace the Jay Treaty, having continued in London since the early spring of 1806, were nearing a partial agreement, with the gaining of England's consent to sign a treaty reopening the West Indian trade[2]. Word of the Berlin Decree interrupted the negotiations. Lords Holland and Aukland sent a note to the American Commission stating that England's observation of the treaty would be contingent on the Unit-

1. MSS. State Dept., Dsps., France 10. Armstrong to Champagny, October 6, 1807.

2. Richardson, *Messages and Papers*, I, 411. Special Message to House and Senate, December 3, 1806.

ed States' pledge to resist the Berlin Decree[1]. The treaty with its shameful conditions was not even transmitted by Jefferson to the Senate for consideration when it arrived in March 1807. He rejected it and sent word to the American commissioners to reopen negotiations[2].

But the comparatively friendly Grenville Ministry, with whom the unsuccessful treaty of 1806 had been arranged, had given place to that of the Tory Duke of Portland when the Commission received its new instructions. The haughty, implacable, and brilliant George Canning was Secretary for Foreign Affairs. The outlook was not favorable for an amelioration of maritime policy. There would be no alterative for the Americans but eventually to submit or to go to war. The Ministry was already planning the Orders in Council of November 11, 1807.

The first reply to the Berlin Decree in view of the impossibility of American acceptance of the conditions of the Holland and Auckland note was an Order in Council of January 7, 1807, asserting the right to capture as good prize any American vessel trading between two ports whence British ships were excluded[3].

British cruisers infested American waters, lying in wait to search vessels, in-going and out-going, as well as to attack such French cruisers as in comparatively small numbers, frequented the region. Since the rupture of the Peace of Amiens the English had begun again with increased vigour to exercise the so-called « right » of impressment in the course of their search of merchant vessels. Where-

1. Arch. Aff. Et., Corr. Dip., E.-U., 64, f° 24.
2. Muzzey, *o. c.*, I, 238.
3. Arch. Aff. Et., Corr. Dip., E.-U., 64, f° 24.

as according to the most correct Agents' reports, 2,410 seamen had been impressed from 1793 to 1802, some 6,000 were impressed between 1803 and 1812[1]. American indignation was rising, when an event in June, 1807, brought the matter to a crisis. Theretofore there had been no impressment from public ships, and the affair of the *Chesapeake* and *Leopard* furnished a *casus belli* more definitely than preceding infractions of neutral rights.

On June 22, 1807, the British *Leopard* hailed the American frigate *Chesapeake* a few miles off Hampton Roads as the latter was setting sail for a Mediterranean cruise. Boarding the *Chesapeake*, British officers demanded of Captain Barron the surrender of three British seamen, deserters from the *Melampus*, and believed to be aboard. Captain Humpreys of the *Leopard* was acting on the orders of Admiral Berkeley of the British fleet at Halifax. Barron denied having such men aboard and refused to muster his crew for inspection. *The Leopard* then fired upon the *Chesapeake*, which, her guns not being cleared, fired only once and struck her colors. The British then came on board, and found the three deserters who were American citizens. They had almost given up finding any British deserters, when they found one Ratford, alias Wilson, in hiding, a deserter from the sloop-of-war *Halifax*. The next morning the Chesapeake limped back into Hampton Roads[2].

Three of her men had been killed and eighteen wounded. A public ship of a peaceful nation had not only been

1. Zimmerman, *o. c.*, 255.
2. Channing, *o. c.*, 192-193.

searched, contrary to International Law[1] but had been fired on. It was an act of war. The American nation demanded that the government act to avenge the insult committed at their very door. Napoleon's innuendoes to Armstrong were intended as hints that war was the only proper way to settle the *Chesapeake* difficulty :

« We had this morning an audience of the Emperor, » wrote Armstrong[2].

« ... As in the former audience, he came directly from Baron Dryer to me, and after some questions of a personal nature, he adverted to the outrage committed by the *Leopard* on the *Chesapeake*. ' This ', said he, ' is most abominable. They have hitherto pretended to visit merchant vessels and that they have a right to do, but they — even they — have set up no such pretension with respect to armed ships. They would now arrange it by giving up a right or usage which never existed... But they will arrange it. — They are afraid to go to war with jour country... ' ».

But obviously an immediate declaration of war was inexpedient. Not only was the country unprepared and British cruisers in great numbers were nearby, ready to attack should war come, but public opinion sustained Jefferson and Madison in the moment when the great test had come for their policy of peaceful coercion.

On July 2, 1807, the President issued a proclamation forbidding entry of American waters and harbours to all English vessels[3]. Instructions were sent to the American

1. Davis, *o. c.*, 484.

2. MSS. State Dept., Dsps., France 10. Armstrong to Madison, August 15, 1807.

3. Updyke, *o. c.*, 42.

Minister in London to secure a disavowal of the *Leopard's* act, restoration of the seamen and an agreement that the impressment of seamen from merchant ships should cease[1]. Canning refused to treat the subject of impressment from public and private vessels as one and the same problem as the Americans required, and the negociations failed[2]. He sent George Rose to treat with the Americans at Washington regarding the *Chesapeake* affair, but with no powers to deal with impressment[3]. No negotiations between England and America which excluded the question of impressment could succeed with the Americans. In spite of the fact that Canning incurred the displeasure of members of his party by disavowing the act of Berkeley and recalling him, the United States was not mollified. Rose sailed on a fruitless mission, and Monroe left London in October 1807, leaving Pinkney in charge of the Legation[4].

Meanwhile Jefferson had called a special session of Congress to deal with the troubled foreign situation. News of the *Horizon* case alarmed American commercial circles, but the bitterest feeling was against Great Britain whose recent aggression was the climax of a long series of offenses, aggravated by the *Essex* decision of 1805. Evidently something had to be done to protect the nation's interests and honor. The moment seemed favourable for action. Political dissension was practically anni-

1. *American State Papers, Foreign Relations*, III, 191. Madison to Monroe, October 10, 1807.
2. Updyke, *o. c.*, 47.
3. H. Adams, *o. c.*, IV, 45.
4. *Ibid.*, IV, 76.

hilated. In both Houses, Jefferson was supported by overwhelming Republican majorities. Public opinion was with the Administration whose national economies had placed the country in an unparalleled condition of prosperity if not of military defense[1]. To Jefferson, resistance by force was a last resort. So too it seemed to the members of Congress, who, however, turned uncertainly this way and that for a definite idea to act on. John Quincy Adams, then a member of Congress, wrote on November 17, 1807 :

« ... I observe among the members great embarrassment, anxiety, alarm and confusion of mind, but no preparation for any measure of vigor, and an obvious strong disposition to yield all that Great Britain may require, to preserve peace, under a thin external show of dignity and bravery...[2] »

But Jefferson had a proposal of action to make, and the uncertain Congress and public readily accepted it. In his Message of December 18, 1807, he recommended the passage of an Embargo Act designed to reply in kind to the policy of England and France. Its economic fallacies and the necessity of the failure of such an attempt were foreseen by few. In general, the measure was viewed as a fitting retort to the Berlin Decree, the *Chesapeake* affair, and George III's proclamation of October 17, 1807[3], requiring all British naval officers to exercise the functions of impressment over neutral merchant vessels. A letter from Armstrong to Madison, written at the moment when

1. H. Adams, *o. c.*, IV, 145-149.
2. *Diary* of J. Q. Adams, 48.
3. Arch. Aff. Et., Corr. Dip., E. U., 64, f° 24.

the Embargo was being considered, is significant as setting forth not only his own, but a generally held view regarding the advisability and aims of such a measure :

« ... It would appear that the two great rivals of Europe were striving, not only which should do us the most harm, but which should most injure itself, in the measures pursued in relation to us. Does not this fact strongly indicate the policy we ought to pursue in our turn? Ought we not to withdraw ourselves from commerce 'till the present storm passes by? Things cannot last as they now are, nor can they change but for the better. An embargo, honestly observed, would, besides securing your present safety and future strength, offer to your friends or to your enemies, a lesson of much instruction : it would teach them how important to belligerents, is the interposition of a regular commerce, commensurate with their wants and honestly neutral — a thing, they have not yet learned to appreciate...[1] »

Only a few Federalist voices and that of the independent Republican, John Randolph, were raised against the Embargo as it passed both Houses with no amendment limiting its duration, and was signed by the President on December 22, 1807. But immediately afterward, economic dissatisfaction began to manifest itself in New England and the commercial Middle States. The usual cries of « Napoleonic influence » were raised by the Federalists who pretended to see a direct and unmerited blow at England, whom they quickly forgave everything so long as they could carry on even the most hazardous commerce with her, their most important client.

1. MSS. State Dept., Dsps., France 10, Armstrong to Madison, September 24, 1807.

As a matter of fact, Turreau was so far from having favoured the Embargo that he wrote bitterly to the Minister of Foreign Affairs regarding the decline of the war spirit[1]. But the Federalists, determined to work on the growing discontent of the commercial interests which were resorting to smuggling and surreptitious running of the Embargo, were planning a struggle for return to power in 1808 and continued to endeavour to bring discredit on the Administration. Barent Gardenier from New York became the Federalist mouthpiece in Congress :

« ... Do not go on forging chains, » he cried, in a speech made on February 29, 1808, « to fasten us to the car of the Imperial Conqueror... Yes sir, I do fear that there is an unseen hand which is guiding us to the most dreadful destinies, -- unseen because it cannot endure the light. Darkness and mystery overshadow this House and this whole nation[2]... »

Party feeling rose to its height. G. W. Campbell of Tennessee and other Republican Representatives called Gardenier's remarks slanderous and derogatory to the Administration's honor. Thereupon the New York Representative challenged Campbell to a duel. J. Q. Adams wrote in his observant diary on March 2, 1808 :

« ... Mr. G. W. Campbell and Mr. Gardenier this morning fought their duel, in which the latter was badly, if not mortally wounded. Mr. Campbell afterwards took his seat in the House of Representatives as if nothing had happened[3]... »

1. H. Adams, *o. c.*, IV, 140.
2. Quoted by H. Adams, *o. c.*, IV, 202-203.
3. *Diary* of J. Q. Adams, p. 53.

Opposition to the Embargo grew, especially in New England. Open violence, threats of disunion and rebellion faced the pacific Jefferson whose physiocratic philosophy had not taught that Embargo would be more expensive in a material way than war. He was forcing protection on men who did not want it. They would rather run the chance of capture by English or French cruisers than to see their ships rotting at anchor.

The constitutionality of the measure was questioned, and try as they could, the strict constructionist party of 1800 could find no refuge for their Embargo in 1807 any more than they had for their purchase of Louisiana in 1803, save in the « elastic clause[1] » of the Constitution.

As a matter of fact, the greatest actual losses were incurred not by refractory New England, which, during the period of Embargo turned to the development of her manufactures, so effectively protected by that measure. It was rather in the grain-growing Middle States and in the South with its cotton and tobacco that the greatest suffering occurred for lack of markets[2]. Even Jefferson's private fortune was swallowed up and his plantation lay in general ruin as a result of the measures to which he persistently held as being eventually for the greatest good to the greatest number.

The effects of domestic distress were seen in the election of 1808 in which the Federalist members to Congress were doubled.

That Federalist charges of French influence in the elec-

1. Cf. *Constitution of the U. S.* Art. I, sect. 8. par. 18.
2. H. Adams, o. c., IV, 274-278.

tion were not well founded is shown in Turreau's admission to Talleyrand as early as August, 1806, that it would be impossible and impolitic for a foreign Minister to try to turn the election, much as he and his government would have liked it[1].

By a mighty effort the Republicans retained the power with the election of James Madison, Jefferson's preference, as his successor[2]. But the Administration's overwhelming popular prestige was lost, and Madison after March, 1809, would be left with the tremendous problem of holding the Union together and with pursuing an even way with both England and France.

As for the effects of the Embargo abroad. In England,

1. Arch. Aff. Et., Corr. Dip., E. U. 59. August 8, 1806. Turreau to Talleyrand. «... Quoiqu'il soit démontré à quiconque connaît bien les Américains, qu'un Ministre étranger, quel que soit son crédit, ne peut pas espérer d'influencer les élections, et qu'il serait impolitique et dangereux de le tenter, il est possible, cependant, qu'avec beaucoup de circonspection et en dissimulant les motifs, on puisse, par des insinuations indirectes, entraîner quelques suffrages vers le Candidat désiré, et, dans cette hypothèse, peut-être serait-il à propos que le Ministre plénipotentiaire en Amérique connût les intentions de son gouvernement à cet égard afin de s'y conformer. Votre Excellence connaît MM. Monröe et Madisson (*sic*). Jugerait-elle convenable de me confier quel est celui des deux auquel les intérêts de la France feraient donner la préférence?

Si M. Clinton pouvait balancer les deux Virginiens il vaudrait mieux, je crois, que ses compétiteurs. Il a plus de caractère que le Président actuel, et depuis trente ans qu'il est dans les grands emplois, son esprit de conduite lui a donné une connaissance méritée. Les fédéralistes lui reprochent *un peu de penchant pour la France.* Votre Excellence trouvera peut-être cette dépêche prématurée puisque le moment de l'élection est encore éloigné; mais on s'en occupe déjà et l'on s'en occupera davantage durant le prochain Congrès, temps le plus favorable aux coteries... »

2. H. Adams, *o. c.*, IV. 287.

certain manufacturers of Lincolnshire and Lancashire suffered from lack of raw materials, but shipowners and farmers were rejoiced. The total losses in net profits for England during the year of Embargo amounted to the comparatively small sum of $ 5,000,000. Actually, the illicit American trade, carried on by ships which had evaded the Embargo amounted to a considerable figure[1].

Meanwhile, before the Embargo was known in England, three Orders in Council were issued on November 11, 1807, as a retort to the Berlin Decree. The first declared that whereas the Order of January 7, 1807, had not had the desired effect of compelling Napoleon to withdraw his Berlin Decree or of inducing neutrals to intervene for that purpose, England declared in a state of blockade all the ports of France and her allies[2]. The second ordered all neutral vessels to enter English ports to pay duties before proceeding on their voyages. The third declared it to be illegal to transfer a French ship to neutrals and declared such if found, to be good prize. A further Order on December 18, 1807, forbade the importation into England of any produce of enemy colonies. But licenses were accorded ship commanders by the British Government for 16 guineas, to import certain quantities of the forbidden articles[3]. The importance of the disgraceful license system of both France and England will be seen later, in its relation to the United States.

In France, the Embargo worked little effect, for trade with that country, never so great as with England, had

1. Pasquet, o. c., I, 325-326.
2. *Cambridge History of British Foreign Policy*, I, 366.
3. Arch. Aff. Et., Corr. Dip., E-U. 64, f° 24.

already fallen off appreciably since 1806. The most significant result did not appear until April 17, 1808, when Napoleon's opportunism seized upon that measure as a basis for his Bayonne Decree. That he was not greatly alarmed by the situation is shown in a letter to Joachim, Grand Duc de Berg, lieutenant-governor of Spain :

« ... Je vois dans le rapport du 16 mai, du Ministre de la Marine, qu'il craint que Porto-Rico et la Havane ne manquent de vivres par l'embargo mis sur les bâtiments américains. D'abord la Havane peut s'approvisionner par les Florides, et Porto-Rico par le continent espagnol. Faire semer plus de patates et autres objets capables de diminuer la consommation du blé...[1]. »

Armstrong wrote that the Embargo had failed as a means of peaceful coercion, and gave the Emperor's opinion on it. He said :

« ... We have somewhat over-estimated our means of coercing the two great belligerents to a course of justice. The Embargo is a measure calculated, above any other, to keep us whole and keep us at peace — but beyond that you cannot count upon it. Here it is not felt, and in England it is forgotten. By the way, the Emperor would prefer to it a war on our part with Great Britain but would prefer it to any state of things, except that of a war. I have had this last preference in my eye, in my last note to the Prince of Benevent[2] and have therefore endeavored to show (what I hope will be the fact) that unless France shall do us justice, we will raise the embargo, and make in its stead, the experiment of an *armed*

1. *Correspondance de Napoléon*, XVII, n° 13943.
2. Title bestowed by Napoleon on Talleyrand in 1805.

commerce. Should she adhere to her wicked and foolish measure, we ought not to content ourselves with doing this. There is much, very much beside, that we can do, and we ought not to omit doing all we can; because among other reasons, it is believed here, that we cannot do much, and even that we will not do what we have the power of doing. For God's sake let your measures be such as will correct this erroneous estimate both of your power and your spirit...[1]. »

At about the same time that the Embargo was passed, Napoleon received word of the English Orders of November 11th while he was in Italy. The Treatics of Tilsitt (July 7-9, 1807) and his victories over Russia and Prussia left him at the peak of his power. With the Continent literally at his feet from Italy to Russia and sworn to support his commercial system he was, save for disturbances in Spain, which he planned to quell quickly, in a position to reply to England's Orders by strengthening his Continental Blockade with the provisions of the Milan Decree[2]. It was issued on December 17, 1807 as a reprisal for the English Orders, and was the most arbitrary and sweeping commercial measure of his career, designed not only effectively to close the whole of Europe to England, but to destroy neutrality by declaring such a position non-existent.

The Decree declared the British Isles to be blockaded. Vessels plying between English ports or ports of England's allies and colonies were good prize. So likewise were any vessels which had submitted to English search or

1. John Armstrong MSS. Library of Congress, L. AC 1081. Armstrong to Madison, August 30, 1808.

2. *Correspondance de Napoléon*, XVI, n° 13391.

which had paid duties in England as provided by the November Orders. Such acts denationalized them, they lost the guaranty of their flag and became English property. Thus summarily did Napoleon destroy the possibility of a Neutral's existence and commerce. Sweden, (soon to be crushed by Russia,) and the United States were the only maritime neutrals. Thus certainly, the United States was caught tightly between English Orders and French Decrees and the problem of extracting herself whole and independent was the gravest which had ever faced her. How was she to obtain her neutral rights from two belligerents whose measures declared and attempted to make that situation untenable?

The correspondence of Napoleon shows clearly that he expected that the United States would declare war on England without delay. The Milan Decree stated that as soon as the English should be forced from their position as stated in their Orders, the Milan Decree would be revoked in regard to the nation so forcing them. It was evidently a bid to the United States[1].

1. Napoleon wrote to Champagny :

« ... Répondez à M. Armstrong que je suis honteux de discuter des points dont l'injustice est si évidente, mais que, dans la position où l'Angleterre met le Continent, je ne doute pas que les États-Unis ne lui déclarent la guerre, spécialement à cause de son décret du 11 novembre ; que quelque grand que soit le mal qui en résultera pour l'Amérique, tout homme sensé le préférera à la reconnaissance des principes monstrueux et de l'anarchie que ce gouvernement veut établir sur les mers ; que, dans ma pensée, je regarde donc la guerre comme déclarée entre l'Angleterre et l'Amérique du jour où l'Angleterre a publié ses décrets ; qu'au reste j'ai ordonné que les bâtiments américains restassent sous le séquestre pour être statué sur ce qui sera nécessaire selon les circonstances... »

Correspondance de Napoléon, XVI, n° 13545, Jan. 12, 1808.

Such expressions were more than suggestions, they contained threats in the high handed sequestration for which they provided.

A note of October 30, 1807 from the Emperor to General Savary, on a mission in St. Petersburg, indicated that he looked upon the probable war between America and England as a means, as well as the prospective Austrian and Swedish war on England, of coercing that power :

« ... Les Américains sont très mal avec l'Angleterre, et l'on écrit que ces deux puissances ne tarderont pas à être en guerre. L'Angleterre est aujourd'hui fort embarrassée, et si, comme je n'en doute pas, nous obligeons l'Autriche et la Suède à lui déclarer la guerre, il y a lieu de croire qu'elle ne tardera pas à venir à récipiscence[1]... »

Armstrong, seeing the implications of the Decree, transmitted an interesting note to Madison on December 12, 1807 regarding it :

« ... I forward by Mr. Mc Elhonny a copy of a second and very extraordinary decree of this government with regard to neutral commerce. Whether it be meant to stimulate Great Britain to the commission of new outrages, or to quicken us in repelling those she has already committed, the policy is equally unwise, and so decidedly so, that I know not a single man of consideration who approves of it. It is however not less true that it is difficult to find one who will hazard an objection to it. Talleyrand who, in this way, is permitted to go farther than any other person, dare not avow his opinion of it, nor, (bad as he thinks it) will he do more than state that the present moment would appear to dictate some modification[2]... »

1. *Correspondance de Napoléon*, XVI, n° 13310.

2. MSS. State Dept., Dsps., France 10, Armstrong to Madison deciphered.

But the effect of the news of the Decree of Milan in the United States was anyting but favorable to France, nor was the country grateful for Napoleon's gracious offer of making common cause against England. In fact, George Rose, whose negotiations in Washington over the *Chesapeake* affair had failed, found public feeling turned for the moment not against his country but against France. He even went so far as to speculate in a note to Canning on February 1, 1808, as to the advisability of looking to the United States for an alliance. There was an interesting hint, also, of a feeling generally held in Tory England regarding her late colonies, that it might be well to keep the sleeping giant in ignorance of its real power :

« ... It would be highly desirable, » he wrote, « that a rupture between France and America should take place; but the latter under its constitution and administration could take but a feeble part in the warfare, and I know not if it is to be wished, that it should be roused to greater exertions, which must lead to a more efficient form of government, a knowledge of its strength, and the development of extensive views of ambition[1]. »

Meanwhile, Napoleon continued to court more openly American participation in his projects by dangling the enticing Floridas before Jefferson's longing eyes. Even before the Milan Decree and before the Emperor went to Spain, there to endeavour to establish his rule more firmly by compelling the abdication of King Charles IV in favor of Joseph Bonaparte, Armstrong from his post of obser-

1. Quoted by Adams, *o. c.* IV, 194-195. MSS. British Archives.

vation, had written a letter to Madison on November 15, 1807, of the greatest significance in several connections. It is interesting as giving a survey of Napoleon's immediate plans in Southern Europe, and an intelligent estimate of the sincerity of the relations between Alexander I of Russia and Napoleon after Tilsitt. But most of all, it clearly exposed the theory of conduct upon which the American Administration should act. was acting, and would continue to act until 1812. It showed that, similar as American and Continental views appeared on the surface with regard to England, the ultimate objects of Europe went far beyond those of America, and aside from the factor of distance, America's best course, should war become necessary, would be not to enter into European coalitions but to « pursue her own objects by her own means ». Even in the case of the Floridas, independent action, and not concessions to Napoleon's desires, should be the means of their acquisition[1].

1. « ... The Emperor left Fontainebleau yesterday, it is said, for Italy, Spain and Portugal. In each of these places great changes are predicted.,. It may be readily supposed that in the midst of movements so great, it has not been easy to attract to our comparatively small business the attention it so well merited from its importance to us. On one branch of it, however, something has been decided, for which (though not officially communicated) it becomes the principal object of this letter to prepare you. We are, it seems, to be invited to make common cause against England, and to take the guarantee of the continent for a maritime peace which shall establish the principle of *free ships free goods*. It is not for me to examine this policy in all its bearings — this you will do much better than I can — but it is my duty to suggest, that the adoption of it by Russia is not yet ascertained, and that untill it is ascertained, our consent would be at least premature. It is indeed true that appearances indicate an uncommon degree of cordiality between the two emperors — but as these appearances may be altogether studied and theatrical, and if so, would prove exactly the opposite of what it was intended they should prove, — the safest course will be to await, (what cannot be long delayed), an open declaration on

Napoleon continued in the early months of 1808 to endeavor to draw the Americans into the war against England. Armstrong reported on February 22, to Madison that in a recent Council of State it had been « proposed to modify the operation of the decrees of November 1806 and December 1807. Though the proposition was supported by the whole weight of the Council, the Emperor became highly indignant, and declared that those decrees should suffer no change, and that the Americans should be compelled to take the positive character of allies or of enemies[1] ». He well knew that the Floridas were the best bait. It was an attempt at the same type of diplomacy that he had used with Prussia in regard to Hanover. He wrote to Champagny on February 2, 1808 :

« ... Faites connaître au Ministre d'Amérique, verba-

the part of Russia. Should this be as decisively on the side of France as is expected here, the question on our part will no doubt be simplified in one respect, but will it not be made more difficult in another? We shall certainly be more a match for Britain, and shall probably sooner and better accomplish the particular objects we have in view, but on the other hand, will we not by connecting ourselves with this vast combination, be compelled to pursue objects far beyond, and perhaps very different from our own? This is a danger inherent in the case, which, of course, cannot be too well considered. Fortunately for us, our distance alone furnishes reasons abundantly sufficient against a coalition with European powers for general objects — and if properly used, cannot fail to satisfy them that tho compelled by the folly or injustice of England to come to blows with her, we shall do right, both as it regards them and ourselves, to pursue our own objects merely by our own means. — Nor is this opinion entirely unconnected with either the demarcation of Louisiana or the transfer to us of the Floridas. »

MSS. State Dept., Dsps., France 10, Armstrong to Madison, November 15, 1807.

1. *American State Papers, Foreign Relations*, III, 250. Amstrong to Madison, February 22, 1808.

lement, que toutes les fois (*sic*) que la guerre serait déclarée entre l'Amérique et l'Angleterre, et que, par suite de cette guerre, les Américains enverraient des troupes dans les Florides pour secourir les Espagnols et repousser les Anglais, je le trouverai très bon. Vous lui laisserez même entrevoir que, dans le cas où l'Amérique voulût faire avec moi un traité d'alliance et faire cause commune, je ne serai pas éloigné d'intervenir près la cour d'Espagne pour obtenir la cession des mêmes Florides en faveur des Américains...[1]. »

True Napoleonic diplomacy, for with a man to whom solemnly sworn promises mattered little if they stood in his way, what weight had verbal agreement when it no longer suited his policy to hold to it? Armstrong replied to the advances of Napoleon in accordance with instructions of May, 2, 1808, saying that the United States declined alliance but was pleased to learn that the Emperor would favour her occupation of the Floridas.

But Napoleon had another plan for America, Spain was slipping from his grasp and he was no longer interested even in pretending that he would countenance American occupation of Florida. He ordered Champagny on June 20, 1808 :

« ... Répondez au Ministre d'Amérique que vous ne savez pas ce qu'il veut dire sur l'occupation des Florides et que les Américains, étant en paix avec les Espagnols, ne peuvent occuper les Florides sans la permission ou la demande du roi d'Espagne...[2]... »

Having failed to secure America's coöperation, Napo-

1. *Correspondance de Napoléon*, XVI, n° 13561.
2. *Correspondance de Napoléon*, XVII, n° 14121.

leon, with his usual ability to seize the opportunity of the moment, hit upon another method of endeavoring to prove to the United States that the position of a neutral was untenable. On April 17, 1808, he issued a most arbitrary measure in regard to America, — the Bayonne Decree. He ordered the sequestration of all American vessels in French ports, since, according to the Embargo, no true American vessels were permitted to sail the seas. Therefore, vessels found calling themselves American were really English in disguise, endeavouring to protect themselves by the neutral American flag. It was a plain case of stealing. Napoleon well knew that true American ships had evaded the Embargo and entered his harbours. But since it suited his plans of the moment, he took it upon himself to punish the refractory Embargo runners.

He wrote to Gaudin, Minister of Finances, announcing his new decree :

« .... Les États-Unis d'Amérique ont mis un Embargo sur leurs bâtiments et ont pris la résolution de ne plus faire de commerce avant que la guerre actuelle ne soit terminée. Il est donc évident que tous les bâtiments qui se disent venir d'Amérique viennent d'Angleterre, et que leurs papiers sont fabriqués. Donnez donc ordre que ceux qui viendront dans les ports de France, de Hollande et dans ceux des villes Hanséatiques et d'Italie soient mis sous le séquestre et d'abord suspectés de venir d'Angleterre...[1] »

To Joachim, Grand Duc de Berg, he wrote regarding the same decree :

1. *Correspondance de Napoléon*, XVII, n° 13753. Napoleon to Gaudin, 17 April, 1808.

« ... Il n'y a de doute qu'il me faille séquestrer tous les bâtiments américains, parce qu'il est certain qu'ils ont tous subi la visite des Anglais. Il faut dire au Chargé d'Affaires d'Amérique que son gouvernement n'a qu'à maintenir l'indépendance de son pavillon ; que nous ne reconnaissons pas le pavillon qui s'est laissé violer... Moquez-vous donc de tout ce que dira ce Chargé d'Affaires... [1].»

As the year 1808 wore on, and the early weeks of 1809 passed, it became clear even to Jefferson and such enthusiastic admirers of the measure as Armstrong that the Embargo had failed entirely in its purpose, having in no way coerced the belligerents, but rather having aggravated French outrages. Further than that, it was causing the greatest distress to America. Armstrong wrote to Madison at the moment that repeal of the general Embargo was being debated and a Non-Intercourse Act against both France and England projected, commending such a course [2].

1. *Correspondance de Napoléon*, XVIII, n° 13885. Napoleon to Grand Duc de Berg, May 14, 1808.

2. ... « Our last accounts from the United States (and which have been received thro' English news papers) are dated the 28 or 29 of December 1808. They bring the President's speech and some debates in Congress which induce a belief that the embargo laws were about to be reinforced by a special act of non-intercourse with France and England. This measure, if adopted, will give no offence here. The non-intercourse will be deemed only a more vigorous embargo and as France does not desire your commerce, nay as her present system absolutely forbids it, she of course cannot regard this prohibition as either insult or injury. But why, (if I may be permitted to ask the question) continue the embargo ? Has it produced any political effect abroad, which had been expected from it ? Has it not produced some effects at home of a character less friendly, than could have been wished ? If such be the facts — why continue it ?

Another letter to Madison written on March 25, 1808, is significant because of its comments on a Federalist town-meeting gathered to threaten disunion over the Embargo; for its remarks on manufactures versus commerce; but more particularly for its frank statement of belief that a war, and a war against both France and England, was the only remedy for the situation.

Armstrong wrote[1] :

« ... We have not heard a syllable from the U. S. directly, since the 1st day of October last, and what has reached us indirectly, is not much calculated to put us at our ease. The British news-papers announce, that great changes have already taken place, and that still greater are expected, but like other prophets, they are careful not to give us much in detail. Accordingly, the only public document they furnish, is the account of Mr. J. Perkin's Boston-meeting, which, viewed by itself and at this distance, cannot perhaps be very correctly estimated. Is it more than the hearty and inconsiderate act of a few outrageous federalists? Is it a game of brag, meant to bully

To secure the interest of the mercantile part of the Community? This no doubt is a powerful argument in it's favor, but why take more care of this interest than it is disposed to take of itself? *Why annoy these Gentlemen with protection?* Or why, after proper remonstrance and admonition on your part, prevent them from burning their fingers, if they choose to do it? But above all, why burn our own, in attempting to save theirs? It is under the influence of these and similar ideas, that I would throw open the doors of commerce to all but France and England, and let the grumblers reap the full harvest of their wisdom and patriotism. The disease would then soon cure itself and I much doubt, whether it can be effectually cured by any other means?... »

MSS. State Dept., Dsps., France 11, Armstrong to Madison, February 16, 1809.

1. MSS. State Dept., Dsps., France 11, Armstrong to Madison, March 25, 1809. Postcript of letter of March 22, 1809.

Congress out of the Embargo? Is it a cool and wicked calculation to sever the Union? Or is it the clamor of actual want or impending bankruptcy, arising from altered habits and suspended occupation? On either supposition, excepting the last, the disease is not likely to become epidemic, and will require only a little time and prudence to correct it; and on the last, a *foreign war* is the grand specific. It may however become a question — with whom we are to make war? To which I answer — with both France & England. Union is our greatest *desideratum* and this is the only effectual way to produce, and secure it. A war with either of these powers, exclusively, would paralyze half your energies whereas a war with both, will put into motion every drop of American blood and will be followed by many other useful consequences among which I consider the most important, the giving to our people some views of interest, and some new principles of action; and the turning them from a perilous foreign commerce (which cannot be maintained but by a navy, & which is, besides, always touching and tainting your politics) into the less profitable but more secure and independent channels of useful manufacture.

It is true that there may be something appalling in the idea of waging war with the two great champions of the universe, at the same time and single handed, and it may even require considerable firmness to get over the apprehension arising from the possible union of their forces against us : -but besides their mutual hatred and increasing discord, our guarantee, on this head, will be found in the obvious circumstance, *that the war with France, would but be nominal (a mere war of words and paper) while with England, it would take a character of seriousness and activity.* »

As a matter of fact, the Committee in Congress to which had been referred the President's message of November 8, 1808, regarding the unsatisfactory state of foreign rela-

tions admitted in its report of November 22, 1808, that war with *both* offenders or submission were the only obvious courses left to the United States. The thought of war with the two most powerful nations of the world gave pause, but there would be no longer any hesitation in resorting to arms with *one* of them, « if a selection could be made on any principle of justice, or without a sacrifice of national independence[1]... »

Evidently at that point in the problem during the winter of 1808-1809 the two belligerents appeared as equal offenders. Some action was imperative, as even Jefferson had come to admit that the Embargo had failed. War with both was impossible. War with one was unjust. Abject submission was unthinkable. The Embargo must be replaced by a middle measure.

On February 3, 1809, the act was repealed[2], the repeal to take effect on March 3. Thus perished on the last day of Jefferson's administration the measure and the unqualified peaceful coercion policy which had constituted his whole diplomatic creed. On March 1, 1809, a Non-Intercourse Bill was passed, its automatic date of expiration being the last day of that session of Congress, — a weak unsatisfactory expedient which well represented the depths of national depression. It was the first step toward putting American commerce up for auction, with England or France as the bidders. The Bill forbade all trade between the United States and France and England while permitting it with their allies. It provided that the Pre-

1. *American State Papers, Foreign Relations*, III, 259-262.
2. The vote in the House was 70-0.

sident should by proclamation renew commerce with the nation which should first cease to violate the neutral rights of the United States.

Armstrong communicated the law to Champagny on April 29, 1809[1]. Similar representations were made to England by the American Minister.

The Non-Intercourse Bill was the first step toward departure from the policy of peaceful coercion. The eight years of Jefferson's administration (1801-1809) had been characterized by the earnest effort to meet the hostile measures of France and England with an open and even-handed neutrality. Not only expediency, but in most cases, conviction, had led the majority of American citizens to sustain his policy of peace at almost any price.

1. « ... The undersigned Minister Plenipotentiary of the U. S. has the honor of presenting to H. Ex. the Minister of Exterior Relations, the enclosed copy of a law recently passed by the Legislature of the Union.

This law as may be seen by the several provisions of it, has been forced upon them by the extraordinary circumstance of the times, and is to be regarded as an act of precaution, taken with the view only of protecting their own property and rights, and of once more appealing to the interest and justice of those who would disturb or destroy them.

Your Excellency may be assured that as nothing has given more disquietude to the U. S. than the necessity which has impelled them to the adoption of this measure, so nothing will give them more satisfaction than to see that necessity cease. It is in the Spirit and Sincerity of this declaration that the undersigned is instructed to add, that any interpretation of the Imperial decrees of the 21 of Nov. 1806 and 17 December 1807 which shall have the effect of leaving unimpaired the maritime rights of the Union will be instantaneously followed by a revocation of the present act, and a reëstablishment of the ordinary commercial intercourse between the two countries... »

MSS. State Dept., Dsps.. France 11. Armstrong to Champagny, April 29, 1809. Copy.

From 1803-1809 insult had been added to injury by both belligerents with such equal injustice, that Congress was embarrassed by the attempt to name the greater aggressor, and on March 1, 1809, hit upon the middle course of passing the Non-Intercourse Bill. Since 1803, Napoleon's attempts at influencing American public policy to become a part of his commercial system and Continental Blockade had been open, persistent. But such peaceful means of retaliation as had been taken against Great Britain, had certainly not been in keeping with his desires nor dictated by him, for they where equally addressed against France. It remains to investigate the manner in which the new Non-Intercourse Bill was received in England and France and its part in producing the situations which led to the war of 1812.

CHAPTER III

The Non-Intercourse Act and Macon's Bill No. 2. Influence on American Foreign Relations, 1809-1810.

> « ... We know it had been the aim of our government for two or three years to divide the belligerents by inducing one or the other of them to revoke its edicts, so that the example would lead to a revocation by the other, or our contest be limited to a single one... »
>
> Joel BARLOW[1].

During the four years of his first term, James Madison[2] was to be confronted with a graver international situation than had faced any of his predecessors. Under his Administration occurred the deluge which had been preparing since the presidency of Washington. The situation of the neutral United States in her relations with France and England had grown steadily worse, especially since her policy of peaceful coercion had met with such evident failure that with the passage of the Non-Intercourse act in March 1, 1809, she had taken the first step toward abandoning it, offering her commerce as a reward to the belligerent who should cease his aggressive policy

1. Article in *National Intelligencer* by Joel Barlow. November (?) 1810, quoted by H. Adams, *o. c.*, IV, 301.

2. James Madison succeeded Thomas Jefferson as President of the United States on March 4, 1809.

in regard to her neutral rights. To such depths had American public spirit fallen that it countenanced a diplomacy by a kind of auction. A survey of the two Acts of Congress providing for such a policy, the Non-Intercourse Act of March 1, 1809, and the Macon Bill n° 2 of May 1, 1810, together with their immediate results in shaping America's relations with England and France, furnishes material for an important chapter in the history of events leading to the War of 1812. The ultimate results of the latter bill, as will be seen later, did much to produce the conflict.

The organization of the American government during Madison's first term did not augur well for the success of the tremendous undertaking in which the United States persisted; namely, that of securing and establishing neutral rights in the face of the belligerent policies of England and France. Madison's Administration enjoyed far less popular support than had Jefferson's in its early years. The Embargo had rent opinion asunder. Admission of its failure and substitution of the Non-Intercourse Act had done nothing to restore unity of sentiment. Madison, himself an able man, of high political conceptions and aims, was not a leader and not therefore a brilliant executor of his excellent ideas. He was hampered by a factious Congress, where his party still held an appreciable majority[1], but which was infected with political cabals. His very Cabinet was tainted with narrow and interested intrigues. Madison was practically obliged, as

1. Senate, 24 Republicans, 10 Federalists.
House, 95 Republicans, 46 Federalists.

the result of such a cabal, to accept Robert Smith, the inefficient and illiterate brother of the wealthy Senator Samuel Smith, as Secretary of State. Madison had wished to nominate the most competent of his advisers, Gallatin, to that important and delicate portfolio, but knowing that the Smith cabal in the Senate would defeat the nomination, he had kept him on as Secretary of the Treasury.

The foreign outlook during the early days of 1809 was hardly more favorable than the domestic. Turreau, greatly incensed by the repeal of the Embargo which he knew to have been acceptable to Napoleon since it conformed to the Emperor's policies and enabled him to base his Bayonne decree thereon, indicated that America might well expect a rupture with France[1].

At that moment, the probability of war with the Empire was heightened by the startling announcement made by Madison that disputes with England were at an end. Canning, actuated by circumstances in England, instructed David Erskine, English Minister at Washington, to offer a recall of the Orders in Council of January and November, 1807, on three conditions. In order to secure their withdrawal, the United States was to reopen commerce with England while retaining it closed to France; she should recognize the rule of 1756 and permit Great Britain to capture all such American vessels as might be found attempting to trade with France or her allies which submitted to Napoleon's Decrees[2]. He was also instructed

1. H. Adams, *o. c.*, V, 31.
2. *Am. St. Ps., For. Rels.*, III, 300-1.

to disavow Admiral Berkeley's orders in the *Chesapeake* affair and to make pecuniary amends to the families of the victims, even restoring the captured men if necessary. But in return the American Government was to disavow Captain Barron's enlisting of British deserters and to agree not to engage such men thereafter.

Erskine, eager to effect an Anglo-American reconciliation, did not communicate his instructions with their unacceptable conditions, to the American Government as he had been ordered by Canning to do. On April 18, 1809, at his own discretion, he so « modified » them as to conceal the existence of the conditions and announced that England would withdraw her Orders if Madison would issue a proclamation reopening commerce between the United States and England while maintaining non-intercourse with France[1].

Without even asking to see Erskine's instructions, Madison authorized Smith to accept the offer[2]. On April 19, 1809, the President proclaimed that on the 10th of June next, commerce with Great Britain would be resumed.

There was general rejoicing in the United States. Few thought of the President's rash haste in accepting Erskine's proposal. Eager to believe that the concessions which the British Minister had offered were the result of their policy of peaceful coercion which they had thought a failure, government and people acclaimed the « Erskine agreement. » Shipping hastily left American harbours even before June 10, delighted that a legal trade was

1. *Am. St. Ps., For. Rels.*, III, 296.
2. *Ibid.*

once more open to them. The Eleventh Congress met in May, 1809, and received Madison's first Annual Message on the 23rd. He recited the steps by which the agreement had been reached. The Federalists were silent and taken aback. The measure was obviously one to arouse Napoleon's ire, and for once it could not be charged that Madison had acted under French influence.

Still no suspicion that the arrangement would not be accepted by Erskine's government had darkened the bright horizon of American commercial hopes and diplomatic self-congratulation, until on June 10, the very day of greatest rejoicing, disturbing news reached America. It was announced that a new Order in Council of April 26, 1809 had been substituted for those of November 11, 1807. The new measure was a concession to neutral contentions, but was far from confirming Erskine's assurance that the blockades would be abandoned. The Order of April 26 provided for the blockade of all the ports of France and her allies from the Ems, to Orbitello and Pirano in Italy[1]. Whereas it was conceded that neutral commerce should no longer be obliged to pay duties to England, the doctrine of paper blockades was not abandoned, and the new Order left Fox's blockade of 1806 still in force.

On May 22, 1809, news of Erskine's agreement reached England. It was disavowed by Canning on May 25, on the grounds that the Minister had exceeded his instructions[2]. Francis Jackson was appointed to succeed Erskine, and

1. Arch. Aff. Et., Corr. Dip., E. U., 64, f° 24.
2. Updyke, *o. c.*, 110.
Am. St. Ps., For. Rels., III, 301.

arrived in Washington in October, 1809. He was a cold, unpleasant man, who sought to awe and frighten the United States. He immediately began by insinuating that Madison had carried on the negociations with Erskine, forcing him to his « modifications » and well knowing that the Minister was exceeding his instructions.

The character of the man as well as the nature of his instructions foreshadowed the failure of any negociations. Aside from his insinuations regarding Madison's probity, he was instructed to require from the President a written acknowledgment that the Proclamation of July 2, 1807, interdicting American waters to British ships, would be annulled as a prelude to any further agreement. The Orders in Council were to be considered « extensions of the law of nations », and liable to operation as retaliatory measures against France. Unless Congress should declare war on France and agree by treaty to continue the war until France repealed her decrees, the English Orders would remain in force. Great Britain insisted on the exercise of the rule of 1756. Upon the troublesome question of impressment, Jackson had not even one word of instruction[1]. Evidently there was intentionally left no opening for negotiations, and reliance for coercing America was to be placed on bullying and threats.

On November 8, 1809, Smith sent a note to Jackson closing all negotiations between him and the American Government, and his recall was asked because of his insulting conduct. But as if to add insult to injury, Jackson was not recalled until a year and a half later, and

1. H. Adams, *o. c.*, V, 99.

his duties were performed in Washington meanwhile by a Chargé d'Affaires. The situation was considered an overwhelming indignity.

Thus ended in humiliation to the government of the United States, the first attempt at arrangement under the Non-Intercourse Act. On August 9, 1809, Madison issued a Proclamation renewing Non-Intercourse with Great Britain[1]. A baffled and defeated America looked toward France to see what effects her measure was producing upon Napoleon.

The Emperor had reached Paris on Juanary 24, 1809, after the check to his fortunes in Spain, and turned his attention immediately to forcing Austria into his system of commercial closure against Great Britain. He already controlled Italy, Germany, Holland, and had secured the Russian Czar's participation in his Continental system. At the moment of the Emperor's departure for Austria, Armstrong received notice of the passage of the Non-Intercourse Act. Communicated to Champagny on April 29, 1809[2], it was a clear announcement to Napoleon that the Americans were not following his wishes in shaping their commercial policy. The Embargo he had approved because it suited his purposes, and his public compliments upon an action so satisfactory to himself had easily given rise to the Federalist charge of « French influence ». It has been seen that the Embargo, which was aimed as a coercive measure against both belligerents had been independently entered into by the United

1. Richardson, *Messages and Papers*, I, 472-473.
2. *Am. St. Ps., For. Rels.*, III, 329.

States and had been repealed when it was evident that it was effective in coercing neither France nor England, but rather, that it was harmful to America. Napoleon was quick to see that the new measure was hostile to himself and his enemy equally, since it not only passively forbade commerce, but actively provided for seizures of the ships of either nation arriving in American harbours.

But there was little reason to believe that in the midst of his campaigns against the forces of the Fifth Coalition Napoleon would be particularly attentive to the communication of the Non-Intercourse Act. He learned of it in the late Spring, after the great victories of Eckmühl and Essling, at the same time that he was informed of the substitution of the Order of April 26, 1809, for those of November, 1807. Then word of Erskine's agreement led him to believe that America had secured concessions from Great Britain of such importance as to merit concessions from himself. On June 10, 1809, he instructed d'Hauterive, temporarily in charge at the Ministry of Foreign Affairs in Paris, to draw up a project for a decree declaring that since America had obliged Great Britain to repeal part of her Orders compelling payment of taxes by neutrals to the British government he would withdraw the Milan Decree and neutral commerce would be placed on the basis of the Berlin Decree[2]. News of the disavowal of Erskine's arrangement, however, reached Vienna on June 13, 1809, and led Napoleon to order d'Hauterive to

1. *Am. St. Ps., For. Rels.*, III, 329.
2. Arch. Nat., AF IV 1681, A. n° 82. *Projet de Décret*, August, 1809.

cease his conciliatory negotiations[1]. Armstrong little dreamed that he himself would on August 5, 1810, communicate a note from Napoleon to the American Government, belief in the sincerity of which would place the United States in a far more dangerous situation than the Erskine arrangement. He wrote to Madison on June 6, 1809, regarding the Erskine disavowal : « ... There is nothing astonishing in all this. It is a true specimen of modern diplomacy...[2]. »

American affairs did not again receive the Emperor's attention until after the battle of Wagram on July 6. Wagram had confirmed Napoleon in his determination to destroy Great Britain by his Continental system of exclusion. The spectacle of an America weak and deluded after the Erskine affair, an America which had dared repeal the Embargo Act which he had applauded, to replace it by the hostile Non-Intercourse, was not calculated to move the Emperor to sympathy, and far less to concessions.

On August 4, 1809 he signed the secret Vienna Decree which ordered the seizure of all American ships entering the ports of France, Spain and Italy, so long as the Non-Intercourse should be in force with regard to France[3]. The decree was not published, but later its principles were to be incorporated in the Decree of Rambouillet, (March 23, 1810).

Meanwhile, the measures of the Vienna Decree being unknown to him, Armstrong received a letter from

1. H. Adams, *o. c.*, V, 139-141.

2. Armstrong MSS. L Ac 1081, Library of Congress, Armstrong to Madison, June 6, 1809.

3. Arch. Aff. Et., Corr. Dip., E. U., 64, n° 166.

Champagny, written at Altenberg on August 22, 1809[1]. Therein were reiterated Napoleon's doctrines regarding blockade and neutral obligations. The principle was repeated that the flag covers the merchandise, that private property is as inviolable on sea as on land, and that a blockade to be legal must be effective. The Berlin and Milan Decrees, insisted the letter, were purely retaliatory and intended to force England who had first laid down such false doctrines as they were based on, to abandon the system. The Emperor had applauded the American Embargo as the noble gesture of a nation preferring to renounce the benefits of commerce rather than submit to the « domination des tyrans de la mer ». The measure of Non-Intercourse which was substituted for the Embargo was not so acceptable to Napoleon since it not only threatened equally with confiscation, the ships of France and England, and forbade commerce with those nations, but also discriminated between France and her allies, in favour of the latter. But the whole Continent was leagued as one against Great Britain. Therefore no commerce could be permitted to France's allies which France herself did not enjoy. As soon as England could be compelled to withdraw her Orders, Napoleon would revoke his Decrees. Then with undisguised frankness he threw down the challenge to the United States :

« ... Mais c'est aux États-Unis à ramener par leur fermeté ces heureux résultats. Une nation qui veut rester libre et souveraine peut-elle mettre en balance quelques intérêts du moment avec le grand intérêt de son indépendance et le maintien de son honneur?... »

1. *Correspondance de Napoléon*, XIX, n° 15692.

It is over and over again clear in Napoleon's communications as well as in Turreau's that it was not only dishonourable but inconceivable from their militaristic view-points that a nation could be so long-suffering. But they had reckoned without the tenacity with which the Americans were determined to win their rights by peaceful means, if at all possible, from belligerents whom they considered equally guilty. In the Non-Intercourse Act, however, which was a step toward abandoning that policy, Napoleon must have seen that the United States was groping, seeking for a means to choose between the aggressors if peaceful coercion entirely failed. Hence Napoleon's constant reiteration of England's original guilt and his professed eagerness to desist from the path which he admitted to be wayward, so soon as England could be forced from her unjust ways. He insinuated that it was for the United States to aid him in an undertaking which after all would work the greater good to America, the only remaining maritime neutral. The Altenberg letter struck a death blow at the Non-Intercourse Act. So far from bidding for American commerce for France, Napoleon refused to permit his allies to accept the offer of trade which the Non-Intercourse Act had forbidden to him. To have permitted to his allies a commerce from which he was excluded would have been to destroy the foundations of his Continental system of exclusion.

Nevertheless, a brief respite for American shipping succeeded the Altenberg letter. Few American vessels were captured by the French, and those taken were for the most part released. Probably the truce occurred par-

tially as a result of Armstrong's note to Champagny on September 16, and partly from Napoleon's determination to admit American ships into participation in the licensed trade. Armstrong had announced in a letter of September 16[1], the failure of the Erskine agreement and Armstrong had announced that on August 9, President Madison had by proclamation revived Non-Intercourse with England. He declared that no « amicable adjustment » existed between the two countries. He went so far as to give Napoleon reason to believe that the United States might possibly be expected to take part in the war against Great Britain. He wrote before instructions[2] on the Altenberg letter had been received :

« ... I cannot but hope, that His Majesty will now find reason to believe, that by means which shall neither derogate from his interest nor his honor, one of two effects may be produced, either, that the U. S. may be made a party to the war against Great Britain or that Great Britain may be compelled to respect the rights of Neutral Commerce... »

From such a statement, Napoleon had little cause to doubt that America's compliance with his desires might be expected if his own conduct should be conciliatory enough.

In the same autumn of 1809, the Emperor determined to admit a limited number of American vessels to parti-

1. MSS. State Dept., Dsps., France 11, Armstrong to Champagny, Sept. 16, 1809.

2. Instructions covering the Altenberg letter were not received by Armstrong until January, 1810.

cipation in his license scheme of « trade by exception[1] ». But so far from placating the American government, that policy was to cause considerable friction between France and America.

The license system as developed by both England and France amounted to legalizing the infractions of their several anti-commercial Orders and Decrees by a small number of merchant ships furnished by the belligerent governments with licenses or permits. Since the first years of the French Revolutionary Wars, both nations had on occasions, granted permission to enter or leave forbidden ports with cargoes of certain commodities excluded by Orders or Decrees but essential to National manufactures or trade. Napoleon had inherited the practice from the Directory, but on July 16, 1800, had forbidden it by a Decree[2]. Since 1806, England had resorted frequently to the system of admitting secretly and for a price ships and cargoes which her public measures forbade. Napoleon had tried the experiment in a few cases in 1808 as a measure of relief to certain agricultural regions. In that year, the grain growers of Basse Bretagne were facing ruin, with the abundant harvests of three seasons stored and going to waste for want of a market. Across the Channel, England was in want and willing to pay any price for food. The Emperor, fearing agrarian disturbances where he had ignored the pleas of manufacturers, Neutrals, and his own allies, made the first move toward relaxing his

1. Cf. Melvin, *Napoleon's Navigation System* for a scholarly and exhaustive study of the license system.

2. Melvin, *o. c.*, 77

Continental system at the very moment when the desired results were being felt by England. He had compelled the countries under his influence to execute the Decrees establishing his exclusion system. The Russian Czar had issued an Ukase, June 5-17, which had closed England's source of supply of naval stores. The Embargo Act had deprived England of the fruits of a rich American harvest. General want and distress were beginning to be felt among her people as a result of the Continental System. At that vital moment when it would seem that he held England's well-being in the hollow of his hand, Napoleon yielded to the demands of the inhabitants of a small region of his vast empire, and opened a breach in his Continental wall. He thought that he could close it when he wished, and believed that his Decree of March 15, 1809, was but a temporary measure. It permitted shipments of grain to England by a selected number of ships under any flags but England's or her allies'[1]. The vessels were to have their cargoes paid in specie and were to return in ballast, thus creating a favorable balance of trade for France. Indeed, the best explanation for Napoleon's having thrown away the opportunity of a lifetime seems to be that he based his license measure on the reasoning that he could stop the practice at will, and that according to the Mercantile theory, exports paid in specie strengthened a nation[2].

The peculiar injustice of the license system was severely

1. cf. Circular of April 14, 1809, addressed to the Prefect of La Gironde. Arch. Nat., F 12,2033.

2. cf. Melvin, *o. c.*, 88-89. Napoleon alone enjoyed the privilege of issuing licenses. His allies were forbidden to grant them.

criticized by Armstrong and the American Government who sought to keep American vessels from indulging in the humiliating and dishonourable trade. The belligerents had not hesitated by the most arbitrary and illegal measures to make legitimate neutral trade practically impossible. And now, by the license system, each sold permissions to trade with the other in specified commodities of which his enemy had need. It amounted to a situation in which the two enemies were conniving with each other at the expense of Neutrals. At first, Napoleon's idea was to exclude America entirely from the trade, appropriating what stolen sweets arose from the practice for the ships of his own or allied countries. After the Altenberg letter, however, a few American vessels were granted licenses, their masters not being too scrupulous to take their orders from Napoleon and to indulge in a trade which the laws of their own country forbade.

Armstrong, suspicious that the calm in the autumn of 1809 announced a storm, delayed his definitive demands for passports, although his health was failing and he was eager to return to America. As the keeping of secrecy regarding the nature and issuance of the licenses was attempted by the French Government and the recipients of the favours, the Ambassador ordered an investigation of the numbers held by Americans in the Fall of 1809 and Spring of 1810. His fears that a great many Americans were participating in the trade were somewhat allayed by the reports of Leonard Jarvis, his agent, who was able to find very few offenders. It is probable, however, that greater numbers of his countrymen were involved than he discovered, for learning that the inquiry was being

undertaken, they probably found means of dissimulating their activities and also avoided his region of examination which was in the North [1]. Jarvis reported that he found most of the licensed trade carried on under the Prussian flag, some 30 vessels leaving the port of Caen monthly for England with grains and wines from France. By the time of his writing, in May, 1810, they were returning not in ballast but with cargoes of desired raw materials or even articles of English manufacture [2].

Armstrong's fears, however, that Napoleon on his return from his victorious Austrian campaign would take measures more severe than ever regarding legitimate neutral trade, were justified. In November and December, the Emperor ordered rigid exclusion of American vessels from the ports of France, Spain, Naples, Holland, Denmark, Prussia, and Sweden [3].

Armstrong determined to urge a change in the lamentable situation. Supported by Members of the Chamber of Commerce of Paris, various business interests and certain Ministers among whom were Fouché (Police) and Montalivet (Interior) he sought amelioration of the commercial attitude of France toward the United States. On September 18, Fouché had asked the American Minister for a note on the « impolicy of the imperial system with regard to neutral commerce. » With that request Armstrong had willingly complied [4].

1. Cf. Melvin, *o. c.*, 153, Note 47.
2. MSS, State Dept., Dsps., France 11, Jarvis to Armstrong. May 18, 1810.
3. Melvin, *o. c.*, 154.
4. Armstrong MSS. Library of Congress. L Ac 1081, Armstrong to Madison, September 18, 1809.

On December 20, Montalivet confronted Napoleon during a Council of Ministers with the demand for a change of policy. Serious debate immediately began, and lasted during the meetings of several weeks[1]. Armstrong, carefully stifling overly optimistic enthusiam, wrote to Secretary Smith on December 22 that he had heard that some favorable change might be expected regarding American commerce :

« The Duke of Otrante (M. Fouché) declared yesterday to the Governor of the Bank that the Imperial Decrees, with regard to American commerce, were on the point of modifications, the effect of which would be to restore the commercial intercourse of the two countries (France & the U. S.).

« Through other channels I am assured, that an official communication of this change, will be made in a few days.

« I need hardly add, that the sunshine of this climate is always doubtful and often deceptious...[2] ».

While discussions continued between Emperor and Ministers, Armstrong wrote to Smith on January 6, 1810, that « the veil, which for some weeks past, has covered the proceedings of the Cabinet with regard to Neutral Commerce, is now so far withdrawn, as to enable us to see, with sufficient distinctness, both the actors and the acting...[3] » Fouché and Montalivet had come out openly against the system. As yet is was impossible to determine the measure which would be taken. Armstrong well

1. Melvin, *o. c.*, 155.

2. MSS. State Dept., Dsps., France 11, Armstrong to Smith, Dec. 22, 1809.

3. *Ibid.*, Jan. 6, 1810.

knew Napoleon to be capable of continuing in a course against the advice of every other man in his Empire.

« ... The Emperor sees things in a way almost peculiar to himself, » he wrote, « and it may be that he is at this moment determined on a course which will have the effect of converting a nation of friends into one of enemies, or expelling from Holland her money, her industry and intelligence and of dethroning a brother of his own raising. Should this be the case, what will avail our appeals to law, to justice and to moderation? »

As often before and despite his « imbecility », Armstrong showed himself again to be a good judge of the Napoleonic character. At first, however, it looked as if his pessimism were unfounded, and that for once Napoleon had listened to the counsel of his Ministers and determined to relax his Continental System in favour of the Americans.

On January 10, 1810, his decision was made regarding a change in his policy. On that day he wrote to Champagny, sending to him the reports of Montalivet and Gaudin (Minister of Finances), « *sur le grand objet de nos relations actuelles avec l'Amérique*[1]. » He requested from the Minister of Exterior Relations a report on the history of Franco-American relations from the Treaty of Mortefontaine to the moment of writing. He asked Champagny's opinion as to the best course to pursue « *pour sortir de la position où nous nous trouvons* ». He reiterated that the character of his Decrees was purely retaliatory and repeated his denunciation of the English

1. *Correspondance de Napoléon*, XX, n° 16127.

doctrine of blockade. He asked for a confirmation of the rumor that the English Orders of November 11, 1807, had been recalled and the Order of April 29, 1809, substituted, « *car une fois que je me serai assuré qu'un octroi de navigation ne sera point établi par l'Angleterre, je pourrai me relâcher sur bien des choses* ». He would consent to sign a Treaty with America if she would agree never to suffer that England impose a tax on her ships and commerce, if she would agree never to permit her ships going to France to call first at English ports, and if she would never countenance English paper blockades. In return Napoleon would agree that French cruisers and warships should never visit American vessels except to verify their nationality, and American ships would be freely received in French or allied ports, subject only to regular customs duties, provided that such ships did not come from English ports. « *Je trace ici ces idées à la hâte* », the Emperor wrote, « *elles seront rectifiées quand j'aurai sous les yeux toutes les pièces et le rapport que vous devez me faire... Vous sentez l'importance de garder sur cet objet le plus grand secret...* »

As a preliminary to executing his new project of negociation with America, Napoleon announced his intention of recalling Turreau and replacing him with another Minister, « *qui connaisse mes intentions et qui soit assez adroit,* » to carry on relations with the United States in the direction that the Emperor wished[1]. At the same period, he ordered Champagny to secure the recall

1. *Correspondance de Napoléon*, XX, n° 16127, Jan. 10, 1810, Napoleon to Champagny.

of the « *morose* » and « *imbécile* » Armstrong[1], whose failure to reply to the Altenberg letter had exasperated Napoleon. As a matter of fact, the American Minister had not received his instructions dated December 1, 1809[2], touching on that letter, until January 1810. When they reached him, in spite of the accurate information which he had had that some favourable action might be expected on the part of the Emperor on January 10[3], and in spite of the fact that the instructions recommended accommodations along the lines of the Altenberg letter, Armstrong confused the whole affair, and therebery lost his greatest moment of advantage. Instead of meeting the relatively conciliatory advances of France he demanded, on the very day that Napoleon intimated his more generous intentions toward the United States, in a note to Champagny, (January 10, 1810)[4], that indemnity be granted for American shipping seized in the harbors of France's allies.

1. *a*) *Correspondance de Napoléon*, XX, n° 16147, Jan. 19, 1810, Napoleon to Champagny.

b) Napoleon wrote to Champagny on January 24, 1810 :

« Je vous ai demandé un rapport sur les affaires d'Amérique. Il est nécessaire avant tout que vous écriviez en chiffres en Amérique, pour demander qu'on envoie à Paris un autre Ministre, en portant des plaintes formelles contre celui-ci, qui n'est bon à rien... » Lecestre, *Lettres inédites*, II, 6.

2. *Am. St. Ps., For. Rels.*, III, 326.

3. In a private note to Secretary Smith on January 1, 1810, Armstrong wrote : « I have but one moment to say that appearances are favorable. By the 10 of Jany, the present system will be irretrievably fixed, or entirely altered. Of the two events, the latter is the most probable... » MSS. State Dept., Dsps., France, 11.

4. Arch. Aff.Et., Corr. Dip., E. U., 64. Armstrong to Champagny, January 10, 1810.

The Emperor, displeased by the American Minister's attitude, decided to drop his conciliatory plan of negociation for a Treaty. Armstrong, realizing that he had lost a golden opportunity, endeavoured to reopen treaty negociations according to the principles of the Altenberg letter and his December 1, 1809, instructions; but the attempt came to nothing. As a *sine qua non* to an agreement, Armstrong continued to demand the restoration of all American ships and cargoes seized, and not carrying contraband or sailing under false papers[1]. To that proposition Napoleon refused to agree and wrote to Champagny from Rambouillet on February 22, 1810, that the American Minister's offer of negociation seemed « *incomplet et plein de réticence... Il me semble que ce Monsieur n'est pas de bonne foi*[2]... »

Champagny had recently noticed, in going over the measures of the Non-Intercourse Act, that it provided for the confiscation of French (as well as English) ships entering American ports. Whereas actually, few or no French vessels had been seized under the law, the stipulation was there, and furnished an opportunity to Napoleon to express his disapproval of American impertinence by establishing a measure of reprisal based largely on that part of the measure. On January 25, 1810[3], he dictated to Champagny the project of a note to be sent to the American Minister, providing for the confiscation of American

1. Arch. Aff. Et., Corr. Dip., E. U., 64. Armstrong to Champagny, February 18, 1810.

2. Arch. Aff Et., Corr. Dip., E. U., 64, f° 87-88. Napoleon to Champagny.

3. *Correspondance de Napoléon*, XX, n°, 16169.

vessels in all ports under French influence. The secret Vienna Decree of August 4, 1809, had already laid down the principle. But in the Rambouillet Decree, dated March 23, 1810, reprisals were based both on the clause of the Non-Intercourse Act forbidding trade with France while permitting it with France's allies, and on the confiscation section of the American law[1]. The measure was retroactive, being effective for all ships and cargoes arrived since May 20, 1809, the date that the American Act had gone into effect. Ships and cargoes seized under the Rambouillet Decree should be sold and the proceeds of the sale were to be deposited in the sinking fund. Only American ships bearing despatches or having no merchandise aboard would be accepted in French or allied ports.

Armstrong was justly astonished that a new Decree had been issued — a measure of reprisal, — based largely on the confiscation clause of the Non-Intercourse Act, a clause which had never before even been remonstrated against in communications from the French Government. No mention of that particular feature of the Act had been made in the Altenberg letter or subsequent notes. Champagny was embarrassed. He could not explain the long delayed remonstrances and reprisal on the grounds of not having seen the Non-Intercourse until recently, for he had acknowledged its receipt in the summer of 1809[2]. He could not with very great dignity admit that he had overlooked that point before in reading the Act. He therefore overrode and ignored Armstrong's expressions of

1. Arch. Nat., AF IV 3320 (n° 2). Rambouillet Decree, 23 Mars 1810.
2. Arch. Nat., AF IV 1681 A. F° 98-99.

astonishment and inquiry as to the delay, and merely stated that the Emperor had been interrupted in his career of conciliatory policy by the hostile American Act. The Americans should have foreseen, he wrote, that such a hostile measure as that providing for confiscation of French ships would have been firmly answered by a measure of reprisal. They should also have foreseen that they were bound to lose in the end. Few French ships entered American ports and therefore few could be confiscated, while many American vessels would naturally have resumed trade with France's allies under the Non-Intercourse Act, and even with France herself in spite of the prohibition. All such ships were liable to confiscation under the Rambouillet Decree[1].

The failure of the Non-Intercourse Act as a coercive measure was thus complete. Nothing had been conceded by England save the substitution of the Orders of April 29, 1809, for those of November 11, 1807. That, however, had not been a result of American diplomacy, but a Tory party action, impelled by conditions in England. The disavowal of Erskine and the whole attitude of the Francis Jackson mission had clearly indicated England's contemptuous feeling for the United States, and her small enthusiasm for regaining the benefits of American commerce at the expense of recalling her Orders in Council. Napoleon's brief idea of favouring American trade had been destroyed by the first contrary wind that blew, in the way of Armstrong's indemnity

1. Arch. Aff. Et., Corr. Dip., E. U. 64, f° 163. Champagny to Armstrong, March 20, 1810.

demands. So far was he from making concessions in order to enjoy its benefits, that he had issued the Rambouillet Decree which more firmly than ever closed the Continental door to legitimate American commerce. Tremendous losses were inflicted on American shippers by the execution of the Rambouillet Decree. The estimated value of the ships and cargoes seized in France, Holland, Italy, and Spain, amounted to $ 10,000,000[1].

More than that, Napoleon had annexed Holland as a result of several circumstances, one of which had been King Louis'[1] continued refusals to seize the American ships sequestered there. At the first announcement of the policy, he had refused. When, however, the Emperor ordered Maréchal Oudinot to march into Holland to force obedience, the King seemingly submitted and signed a Treaty on March 16, 1810, which contained a secret stipulation providing for the seizure and turning over of the American property to France[2]. But he continued to endeavour to evade the surrender of American ships and resisted the military occupation. On July 3, 1810, he abdicated and took refuge in Germany. On July 8, the Emperor signed a decree by which he annexed Holland to France[3]. It was a worth while stroke for his treasury, since a report from the Minister of the Interior, Savary, Duc de Rovigo[4], showed the 21 American vessels seques-

1. H. Adams, *o. c.*, V, 243. 20 years later, America received $ 5,000,000 indemnity for the seizures. Napoleon himself had admitted that he had gained at least $ 7,000,000 thereby.

2. *Ibid.*, V, 240.

3. *Ibid.*, V, 241.

4. Rovigo replaced Fouché who was disgraced and dismissep June 3, 1810, for complicity in an intrigue with England. He had

tered in Holland alone in August, 1810, to have been valued at 20,837,608 francs[1].

Meanwhile the American Congress had made another hesitating and uncertain step toward forcing an issue by a last desperate effort at a degenerate sort of peaceful coercion. There was still hope that one or the other of the belligerents might be brought to modify his unjust measures, or at least that some reaction of one or the other would permit America to choose between her aggressors. Madison's Annual Message of November 29, 1809[2], had, by its very colorlessness, indicated the hesitant character of the Administration. Something had to be done, for apparently the Non-Intercourse, like the Embargo, was bringing greater distress to America than to France or England. It had merely served to call down the contemptuous disregard of both belligerents for a nation which yet persisted in her (to them) incomprehensible policy of peaceful coercion, in spite of the policy's repeated failures.

The Non-Intercourse Act was to expire by its own limitation with the present session of the 11th Congress. What course should that apathetic assembly pursue? Representative Macon of North Carolina proposed a bill which was to close American ports to French and English public and private vessels, but which permitted the direct

proposed that France should create a Kingdom for the Spanish Bourbons in Louisiana if England would abandon Spain. Cf. H. Adams, *o. c.*, V, 239.

1. Arch. Nat., AF IV 1241, Note for Napoleon, 11th Session of Conseil de Commerce, 27 août, 1810.

2. Cf. Richardson, *Messages and Papers*, cited by H. Adams, *o. c.*, V, 177.

importation of French and English merchandise in vessels wholly American. The mild measure was defeated on March 31, 1810, denounced by some as too weak, by others, as too strong. The vigour and determination of the Embargo days were gone. Weary and mediocre voices for the most part spoke pro or con the proposed measures. Only one address struck a new and decisive tone and demanded in the name of the Fathers of the Country that Congress take some action in keeping with its noble heritage. The voice was Henry Clay's[1]. He was a new Representative from Kentucky who announced the younger generation of members who should dominate in the next Congress, and whose character for vigour and decision gave them the name of « War Hawks. »

Turreau reported to Champagny on March 15, 1810, that the Macon Bill n° 1, had failed, that the American government wavered this way and that, and had at last openly announced that no measure should be attempted until news arrived from France and England.

« ... Il est décidé, et on le dit hautement dans la Chambre des Représentants, » he wrote, « qu'on attendra des nouvelles de Londres et de Paris avant de prendre une détermination. Cela était pensé depuis longtemps, mais on n'osait pas l'avouer.

« Il y a un grand nombre de membres du Congrès qui, pris individuellement, conviennent que depuis quatre ans la conduite du gouvernement a été pusillanime jusqu'à la honte. Mais les Modérés, qui agissent toujours en masse, prolongent la patience des autres par l'espérance d'un accommodement prochain avec la Grande-Bretagne et la reprise du commerce extérieur dans toute sa lati-

1. H. Adams, *o. c.*, V, 189.

tude... Quant à la France, on se flatte également ici — qu'elle est plus disposée que jamais à modifier ses lois prohibitives en faveur du commerce américain[1]... »

Still hopefully, but unable to wait longer for news from Europe, the Congress was obliged to act[2]. Recent information had led Americans to hope that England intended to follow a more conciliatory policy and send a distinguished and fully empowered Minister to settle grievances and repair the harm which Jackson had done. News from France had been sent during the earlier period of 1810 when Napoleon's attitude had seemed to herald a new era[3].

The expedient which Congress hit upon as a measure to succeed the Non-Intercourse Act was to bring on indirectly the war of 1812 with England. Macon's Bill n° 2, as it was nicknamed, was passed on May 1, 1810. It marked the fourth and supreme effort at keeping a neutral course. Since 1806, Congress had tried to find effective means of coercing the belligerents peacefully. So far all had failed, the partial Non-Intercourse of April 1806, the Embargo of 1807 and the Non-Intercourse of 1809. Macon's Bill n° 2, showed the lowest depths to which national spirit had fallen. All pretense of resistance to the belligerents was abandoned, and instead, American influence was put up at auction in a way more humiliating than by

1. Arch. Aff. Et., Corr. Dip., E. U. 63, Turreau to Champagny, March 15, 1810.

2. Although the Rambouillet Decree was dated March 23, 1810, it was not published until May 14, 1810.

3. Cf. Turreau's letter to Champagny of March 15, 1810.

the Non-Intercourse of 1809. In the latter named Act, America had taken a position of her own volition, inimical both to France and England, with the condition that she would resume friendly commercial relations with the one which should modify or withdraw her Decrees or Orders hostile to American commerce. The Macon Bill, on the contrary, opened trade with all the world but gave the President, in the event that either of the belligerents should withdraw or modify her hostile measures before March 3, 1811, authority to prohibit by proclamation all commercial intercourse with the power not so doing[1]. Thus, from a friendly position, America was open to the influence of one or the other belligerent, to take a commercially hostile position against the other. Heretofore she had placed herself in an attitude hostile both to France and England and had offered to retreat from that hostile to a friendly attitude if one of the European powers should give her occasion. But for the first time, she offered, for a consideration, to depart from a friendly to a hostile commercial position in regard to one power at the behest of the other. And from that, what with other forces at work, it was but a step to war.

A study of Napoleon's diplomacy from the moment of the passage of the Macon Bill N° 2, becomes the crux of the whole problem under consideration. It has been seen that his efforts at influencing the United States to take arms against England had failed so far, and that American legislation had been primarily willed by the Americans, some of it independentely arrived at but coinciding

1. Cf. H. Adams, *o. c.*, V, 195.

with his desires (the Embargo), and other measures not coinciding with his wishes (Non-Intercourse of 1809). It remains to observe closely the way in which he seized the open invitation of a wavering und uncertain Congress, to see the American reaction to his gesture and to weigh his influence in the balance of factors which led America into war with England.

The news of the passage of the Macon Bill reached Napoleon at a psychological moment. From April to June, 1810, he had been absent from Paris on his wedding journey to Holland and the Netherlands with Marie Louise. He had had occasion to observe some of the evils that his Continental System was working in the countries under his influence. On his return, the combined effect of his observations and the news of the American Bill led him to determine on a thorough reconsideration of his commercial policy.

On June 6, 1810, he ordered the organization of a *Conseil du Commerce et des Manufactures*, to meet every week[1]. The Emperor was to preside. The Ministers of the Interior[2] and of Exterior Relations[3], of Marine[4], and Finance[5] were to be present as well as Ministers of State, Defermon and Regnaud de Saint-Jean d'Angély. The Councilor of State, Comte de Sussy, Director General of the Customs, and Senator Chaptal were also to be members. The various Ministers were to bring before the Council, mate-

1. Arch. Nat. AF IV 1241, Conseil du Commerce June 6, 1810. Project of Organization.
2. Bachasson, Comte de Montalivet.
3. Champagny, Duc de Cadore.
4. Denis, Duc de Decrès.
5. Gaudin, Duc de Gaëte.

rial appropriate to the interests of their respective portfolios. The Minister of Exterior Relations was especially instructed to report on relations with the United States and on complaints made against the license system by the various powers. Problems regarding the granting of licenses for exportation and importation, as well as general considerations on the development of manufactures were to be discussed.

The first meeting of the Council took place on June 11, 1810, but American affairs did not receive particular attention until the third session held on June 25, 1810, at St-Cloud. Word had just been received from Armstrong, unofficially confirming the news of the passage of the Macon Bill n° 2[1]. On that day, Napoleon announced that some action must be taken regarding the American situation[2]. The American market, reopened by the Act, compensated England amply for the closure of France and Holland. Anglo-American trade would immediately be resumed. But as for Franco-American commerce, the Americans knew that any ships reaching French ports or ports under her influence would be sequestered on arrival, « *parce que tous auraient violé le blocus, parce que tous, ou auraient été visités par des bâtiments anglais, ou auraient touché en Angleterre* »[3]. It was probable, then, Napoleon continued in an address to the Council,

1. The first news of the Macon Bill had been received in France by Armstrong in a newspaper clipping from England. It had been unofficially communicated in that form to Champagny. Cf. H. Adams, *o. c.*, V, 251.

2. Arch. Nat., AF IV 1241, Minutes of 3d Conseil du Commerce, June 25, 1810.

3. *Ibid.*

that no American shipping would come to France until informed of France's intentions, as to whether or not her policy would be relaxed.

« ... On peut faire deux choses, » suggested the Emperor, « ou déclarer qu'on rapporte les décrets de Berlin et de Milan et rétablir le commerce comme il était auparavant, ou annoncer qu'on rapportera ces décrets au 1er septembre, si alors les Anglais ont rapporté les arrêts du Conseil. Ou les Anglais rapporteront leurs arrêts du Conseil, et alors il y aura à examiner si l'état qui s'en suivra nous sera avantageux. Cet état n'aura aucune influence sur la législation des Douanes qui règlera toujours à volonté les droits et les prohibitions. Les Américains pourront apporter du sucre et du café dans nos ports; les corsaires ne les arrêteront pas, parce que le pavillon couvre la marchandise; mais quand ils viendront dans un port de France ou dans un pays sous l'influence de la France, ils trouveront la législation des Douanes par laquelle on pourra dire qu'on ne veut pas du sucre et du café apporté par les Américains, parce que ce sont des marchandises anglaises, qu'on ne veut point de tabac, etc., etc.... Alors il est évident qu'on ne s'engagerait à rien, mais on aurait l'avantage de laisser entrer la marchandise dont on aurait besoin... Ce système ne serait praticable que si l'on pouvait être certain de ne pas recevoir des sucres, des cafés et des cotons anglais.

« On a le temps de méditer encore sur ce point.

« Mais il faut examiner en attendant s'il ne conviendrait pas de donner des licences sous le nom de *permis*, pour une vingtaine de bâtiments et pour l'introduction des cotons de Géorgie...[1]. »

1. Arch. Nat., AF IV 1241, 3e Conseil du Commerce, June 25, 1810. The minutes of the same meeting include a report of the Minister of Finances on American cargoes in Holland, ordered by the Treaty of March 16, 1810, to be turned over to France. Some few had been returned to their proprietors. Others to the value of 352,075 florins had been sold. The Emperor ordered the sale of American cargoes seized in Spain, the sale to take place August 1, 1810.

It was thus clear that Napoleon was planning to take some action following the American Bill, which should appear on the surface favourable to the United States but which as a matter of fact should « commit him to nothing ». But while endeavouring to hit upon a means to his end, he decided to extend his license system to include American ships, for there was a crying need in France for cotton which the State of Georgia could supply in abundance, as well as for other products of American soil. Therefore, in spite of Armstrong's protests that the United States government objected strongly to her citizens, taking part in a trade which limited American commerce to the narrow channels which Napoleon was pleased to permit, a decree was signed on July 5, 1810, establishing the license system for American trade[1]. The greatest secrecy attended the exact nature and method of working of the system. Armstrong, by the early Autumn, had heard only vague and disquieting rumours that the practice had been extended in a large way to American shipping. He wrote to Madison in late August or early September, 1810[2] :

« ... I understand that Arcambal and Fourcroy are appointed to the Consulates of New York and Charleston to make an experiment of the new system of licenses. I shall present a note on this new system before I leave Paris. As it now stands, it is quite ridiculous and none but madmen will meddle with it. J. A. Morton is the only American here that I have heard of so far who is mean enough to take one of these licenses... »

1. Melvin, *o. c.*, 175-176.
2. Armstrong MSS. Library of Congress, L Ac 1081. There is

Armstrong would have been more incensed than ever had he had a complete idea of the nature of the license system and the manner in which it directed French Consuls in America to infringe on the sovereignty of the United States. The July 5, 1810, Decree provided that 30 licenses[1] might be issued to American vessels, although the number might be increased until approximately between 60 or 80 should have been granted. « *Par ce moyen* », wrote Napoleon to Montalivet on July 16, 1810, « *mes manufactures seront abondamment pourvues de coton...* »[2]. Although cotton was to be the principal import, cod, hides, dyewood etc. were to be admitted, the articles varying as the system continued. Wines, brandies, silks, furniture etc., to the value of the imports, were to be exported. American ships under licenses were to be admitted only from Charleston and New York. Unless forced into another port by stress of weather, they must enter at Bordeaux, Nantes or Marseille. They must carry a permit (so-called out of deference for the American hatred of the more derogatory word *license*) visaed by one of the two authorized Consuls in America. They must have a certificate of origin from the same Consul, with a sentence in cipher and a cipher letter to the Minister of Exterior Relations. A newspaper of the date of sailing from New York or Charleston must accompany the papers. New permits had to be bought on the outward voyage from France. At first, it would appear

no exact date on the letter, but it was probably written toward the end of August, or early in September, 1810.

1. Lecestre, *o. c.*, II, Napoleon to Montalivet, July 16, 1810.
2. *Ibid.*

that few Americans applied for the licenses, but between August 11 and September 1, 1810, some 60 had been granted, and within the first year, 109[1].

Napoleon impatiently waited for Armstrong to take some action so that the Emperor could develop his plan regarding a « revocation » of the Berlin and Milan decrees sketched in his speech to the Council during the 3rd session. But Armstrong, uninstructed by his government since January, informed of the Macon Act only by a newspaper clipping, could do nothing but wait for developments. A rumor was circulated in Paris about July 27, 1810, that the American Congress had been called to declare war on France as a result of the Rambouillet Decree. In Armstrong's opinion, as shown in a letter to Madison on August 15, 1810[2], that rumour had an all-important rôle in determining Napoleon to resort to the most daring move of his diplomatic career in regard to America.

In a letter of July 31, 1810, to Champagny[3], the Emperor having determined to act, outlined the course which lay open to him in view of the Macon Bill. He stated that after reflection, an outright revocation of his Berlin and Milan Decrees would not have the effect that he would wish. Resorting to ambigous language, he announced that it would seem more convenient and not so sensational simply to write to Armstrong that the Decrees would cease to have their effect after November 1, 1810, and that he would consider them revoked if the American

1. Melvin, *o. c.*, 178.
2. Armstrong MSS. Library of Congress, L Ac 1081, to Madison, August 5, 1810.
3. *Correspondance de Napoléon*, XX, pp. 244-245, n° 16736.

government, in case the English did not recall their Orders, would revive the Non-Intercourse Act with Great Britain in accordance with the Macon Bill.

Napoleon himself drew up and corrected on August 2, the first draft of the proposed note to Armstrong[1]. Few others knew so well as he how to couch in fair words a policy of doubtful, if not bad faith. Several copies were drafted and changes made between August 2, and the final draft of August 5. A comparative study of the documents of August 2 and 5, corrected in part by Napoleon's hand[2], offers interesting insight into his sense of the importance of the move and into the real nature of his attitude and policy.

The first paragraph of the note of August 5, 1810[3], sent by Champagny to Armstrong, commented that the Emperor had read the newspaper article announcing the passage of the Macon Bill. Then defending himself and as if blaming the American government and its Minister, he said that the announcement of several important Acts of the United States had been communicated to him only after long delay and sometimes only unofficially[4]. « Il résulte de ce retard, » he wrote, « des inconvénients graves qui n'auraient pas lieu, si ces actes étaient promptement et officiellement communiqués. »

1. *Correspondance de Napoléon*, XXI, n° 16743.

2. Vouched for by manuscript authority at Archives du Ministère des Affaires Etrangères.

3. Arch. Aff. Et., Corr. Dip., E. U. 64, F° 68.

4. On March 9, 1810 Armstrong wrote to Champagny denying deliberate delay in communicating with the French Government. He had just received official word from Smith regarding the passage of the Macon Bill at the moment of writing on August 9.

The note continued that Napoleon had approved the Embargo, which, while being detrimental to French interests, had not offended French honour. Losses incurred by France through the Embargo were gladly endured, for America's action in taking that measure had been a worthy one, it was stated. The note then remarked that « l'Empereur a fait ce sacrifice au principe qu'avait déterminé les Américains à l'Embargo, en leur inspirant la noble résolution de s'interdire les mers plutôt que de se soumettre aux lois de ceux qui veulent s'en faire les dominateurs[1] ».

The Embargo, continued the note, had been repealed and replaced by a measure particularly harmful to French interests, the Non-Intercourse Act of 1809. The draft of August 2 shows that Napoleon had at first wished to pretend that his measure of reprisal, the Rambouillet Decree, had not been taken until so late because the Non-Intercourse Act had not been known to him until after his return to France [*pas bien connu qu'après son retour en France*]. But the lie was stricken out and substituted in its place was the statement that the measure had not been known to him until « bien tard ». The Rambouillet Decree had been « commandé par la dignité de la France, circonstance sur laquelle il était impossible de transiger ».

Again Congress had changed its course by substituting the Act of May 1, 1810. « Dans ce nouvel état de choses, » read the note, « je suis autorisé à vous déclarer, Mon-

1. Phrases in italics between brackets indicate the reading of the draft of August 2, 1810, before correction. Phrases in roman letters, indicate the reading of the draft of August 5.

sieur, que les Décrets de Berlin et de Milan sont révoqués et qu'à dater du 1er Novembre ils cesseront d'avoir leur effet, [*pourvu*] bien entendu[1] qu'en conséquence de cette déclaration les Anglais [*révoquent*] révoqueront leurs arrêts du Conseil et [*renoncent*] renonceront aux nouveaux principes du blocus qu'ils ont voulu établir, ou bien que les États-Unis, conformément à l'acte que vous venez de communiquer, [*fassent*] feront respecter leurs droits par les Anglais. »

The note closed with a patronizing and wordy protestation of the Emperor's love of the Americans, which in the face of his many acts to the contrary might have been considered almost insulting. His complacent way of saying that he countenanced their prosperity and commerce because they accorded with his policy (which policy the Americans had excellent grounds for knowing was ever-changing) and his statement that he had sold Louisiana to them because he wished to aggrandize the United States (which statement they knew equally well to be false) should have aroused the Americans to a sense that the whole paper was hypocritical and treacherous.

1. The change of construction from subjunctive to indicative is significant. The « bien entendu » became celebrated in the later discussions in the American Congress as to the revocation of the Berlin and Milan Decrees. Americans opposed to the Administration's policy of accepting them as revoked argued that the « bien entendu » and the conditions which followed constituted a virtual order by Napoleon which the Administration had shamelessly accepted in reviving Non-Intercourse with Great Britain on insufficient evidence that Napoleon's Decrees were revoked, and also that it implied the necessity of the fulfillment of an agreement by the United States as a « condition precedent » to the revocation by France.

The note of August 5, immediately communicated to Armstrong, may well be imagined to have astonished him, coming as it did at a moment when he had deemed negotiations to be at an unfavourable standstill after the rumours of the recent license orders. That he did not doubt the revocation to be absolute, and that he even hoped that England might take similarly friendly action before the expiration of the time limit (March 3, 1811) for such changes of policy under Macon's Bill, is interestingly shown in a private letter written to Madison on August 5, 1810. He stated therein his belief that the revocation had occurred as a result of Napoleon's fear of the truth of the rumour that the United States was to declare war on France in revenge for the Rambouillet Decree. Armstrong, the formerly keen and suspicious judge of Napoleonic policy, was far from accute in his analysis of the Emperor's object in sending the letter of August 5.

« ... The revocation, » he wrote to Madison [1], « ... abundantly proves two things - Ist. that though France has no objections to frighten, she has no disposition to fight the United States. Her ambition, gigantic and terrible as it certainly is, is travelling another road, and will find full occupation for twenty years to come, in establishing her dominion over Europe, etc., etc... 2d. that sick of expedients, by which she has lost both character and money, and under which her people are fast impoverishing, she would now return to a degree of justice, moderation and good sense... »

In dealing with the whole problem of American reac-

1. Armstrong MSS. Library of Congress L Ac 1081. Armstrong to Madison, August 5, 1810.

tion to the letter of August 5, the psychological aspects must be kept in mind. Its cleverly ambiguous phraseology permitted several interpretations. Napoleon probably considered that he committed himself to nothing (« *ne s'engagerait à rien*[1] ») by such a note. But those Americans, who wanted to believe that the note was written in good faith and as an unconditional concession gained by the Macon Act, were not attentive at the first eager and delighted reading to the loopholes that the Emperor had left for himself with his « sont révoqués », « cesseront d'avoir leur effet », and « bien entendu que... » As if they had not had warning enough against too rapid acceptance of false promises in the case of the Erskine agreement and of leaping to conclusions which they devoutly desired to be true, the majority of the Administration party in America embraced with joy the interpretation which they wanted to believe of Napoleon's statement that his Decrees were revoked and would cease to have effect after November 1, 1810, it being *of course understood* that in consequence of that declaration the English would revoke their Orders and renounce their principles of blockade, or, according to the Macon Act, that the United States would *make the English respect American rights*. As drowning men will clutch at a straw, they saw only in Napoleon's note a statement that in exchange for the revocation of the Decrees they should revive Non-Intercourse with England. They did not foresee that he would not be satisfied with their mere

1. Arch. Nat., AF IV 1241, 3e Conseil de Commerce, June 25, 1810, cf. p. 135 above.

compliance with the letter of their law, namely that upon England's failure to revoke her Orders following Napoleon's gesture, the United States should revive Non-Intercourse with that refractory nation. Events will show his ultimate aim to have been that America, having pledged to make England respect her rights, should do so *by force*, if the peaceful coercion of the revived Non-Intercourse failed.

Armstrong should have read the signs of the times, but instead, he recorded simply and without comment, in a letter to Madison [1], a circumstance which he might well have interpreted as particulary significant of Napoleon's real expectation of what America should do to make her rights respected. The Minister wrote regarding a birthday reception held by Napoleon. The American's clumsy sarcasm à propos of the occasion throws interesting light on his attitude toward the Emperor's would-be omnipotence :

« ... On the 15th instant, occurred the Emperor's birthday. (You know there being no Saint Napoleon on the Calendar, he made one, and displacing the Virgin Mary, gave him her day). The Diplomatic Corps were received and many others. On introducing to him a young man of Philadelphia (Mr. Craig) who had recently come from England, he asked him, what was the opinion in London — would the British Government give up their Orders and blockades or not? Craig answered (not very directly) that it was hoped they would. Yes, he replied, I have set them the example and they ought to follow it, and if they do not, the cannon of the Republic should make them. They (cannon) alone command the respect

1. Armstrong MMS. Library of Congress, L AC 1081. To Madison, no date, but evidently written in late August, 1810.

of nations. Though the circle was uncommonly large and the time given to its reception very short, he came twice to me and asked me many questions, all of which were personal, excepting one, viz : at what time Congrèss would meet? And this he repeated... »

The questionable faith of the Emperor's purpose was, however, not understood by Armstrong, who in his eagerness to believe that all was well, did not look far below the surface. Acknowledging the August 5 note, Armstrong wrote to Champagny on August 7. There was no question or suspicion on his part that there was a loophole in Napoleon's statement by which he would, when the Americans should have revived Non-Intercourse with England, continue his depredations under the Berlin and Milan Decrees, on the grounds that America had not fulfilled her pledge, showing that after all, war was what he had meant the United States should undertake as the means of making her rights respected. Armstrong in acknowledging the note, wrote practically a translation of Champagny's statement :

« I have received the note your Excellency has done me the honor to write to me on the 5 th instant, informing me that His Majesty has been pleased in consequence, of the late act of Congress of the 1st of May last to revoke his decrees of Berlin and Milan, and that after the 1st of November next, they shall cease to exist, provided that England will revoke her Orders in Council and renounce the new principles of blockade which she has wished to establish, or that the United States, in conformity to their late act of the 1st of March, will cause their rights to be respected by the English... »[1]

1. Arch. Aff. Et., Corr. Dip., E. U. 64, f° 71.

He asked for a ship to convey the news to the United States, and passports for a Mr. Mc Ilvaine to carry the word to Pinkney in London.

Meanwhile, could Armstrong have seen behind the scenes, he would have been gravely alarmed to observe Napoleon's bad faith in signing on the same day as the conciliatory note of August 5, the secret Trianon Decree[1] which belied the friendliness of his intention.

As a further reprisal for the confiscation clause of the American Act of March 1, 1809, which was well known by Napoleon to have ceased to be effective in March, 1810, the following measures were ordered by the Trianon Decree :

1. — Funds arising to date from the sale of American merchandise should be transferred from the sinking fund, as ordered by the Rambouillet Decree, to the public Treasury.

2. — American merchandise still sequestered, should be sold and the proceeds of the sales likewise deposited in the public Treasury.

3. — American vessels regarding which no decision had as yet been rendered should be sold and the proceeds were to be deposited in the public Treasury.

4. — Since the Act of March 1 did not order the crews of such French boats as should be confiscated in America to be held as prisoners, American crews

1. Arch. Nat., AF IV, pl. 3563, n° 5, C 2426.

should not be held in France, Napoleon « *voulant toujours traiter les États-Unis aussi favorablement qu'il nous est possible et n'usant qu'à regret du droit de représailles à leur égard...* »

5. — The Trianon Decree should be effective for all American boats entered and sequestered in French ports between May 20, 1809, and May 1, 1810.

6. — Until November 1, 1810 (« *époque fixée par la lettre de notre Ministre des Relations Extérieures au Plénipotentiaire des États-Unis pour la révocation de nos Décrets de Berlin et de Milan dans le cas où les conditions établies par ladite lettre seraient remplies*, ») American ships might enter French ports, But their discharge of cargo could not take place unless they were provided with a French license and could show that they had not been denationalized by submission to the British Orders, and « *qu'ils n'ont point contrevenu à nos décrets de Berlin et de Milan.* »

The Trianon Decree, which secretly showed the French decrees to be unrevoked on the same day that the letter of August 5 was presented to the United States, was never made known to the American government, until it was discovered in 1821, through a mistake, by Gallatin, then American Minister in Paris. He had asked for a document from the Archives of the Foreign Department, and the Trianon Decree was sent by error. He wrote to John Quincy Adams, then Secretary of State, the fol-

lowing significant opinion regarding the importance of the secret Decree[1] :

« ... It [the Trianon Decree] bears date the same day on which it was officially communicated to the American Minister that the Berlin and Milan Decrees would be revoked on the 1st day of the ensuing November, and no one can suppose that if it had been communicated or published at the same time, the United States would, with respect to the promised revocation of the Berlin and Milan Decrees, have taken that ground which ultimately led to the war with Great Britain. It is indeed unnecessary to comment on such a glaring act of combined injustice, bad faith and meanness as the enacting and concealment of the Decree exhibited... »

Nor was the secret Decree of August 5, the only piece of bad faith enacted at almost the same time[2]. A project of a circular drawn up by Champagny on August 12, 1810, relative to the note addressed to Armstrong on August 5, showed clearly that the real object of Napoleon's diplomacy was to compel the United States to cause the revocation of the British Orders, if the reviving of Non-Intercourse proved unavailing, by arms. He stated that if the United States failed to secure the revocation of the Orders by peaceful means that[3] :

« ... L'Empereur exige que les Américains, conformé-

1. MSS. State Dept., Dsps., France 20. Gallatin to J. Q. Adams, September 15, 1821,

2. Another decree was signed at Trianon on August 5, 1810, affecting the tariff on colonial imports. The new schedule revised the duties upward to 40 % — 50 % ad valorem. This measure was to play on important rôle in Franco-American affairs in 1811-1812. Cf. Melvin, *o. c.*, p. 216 ff.

3. Arch. Nat., AF IV 1681, n° 119.

ment à l'engagement qu'ils en ont pris, fassent respecter par les Anglais leurs droits, comme Puissance neutre. L'Amérique alors, sera comme l'Europe, armée contre la Tyrannie anglaise. A cette condition les décrets de Berlin et de Milan seront révoqués. Mais si cet engagement n'était pas rempli, si les Anglais persistaient dans leur système d'oppression, l'Empereur, Monsieur, se verrait obligé de maintenir le seul système par lequel on a pu jusqu'à ce moment repousser les prétentions anglaises et si les Américains devaient en souffrir, ils ne pourraient accuser de leurs maux que l'insouciance coupable ou la faiblesse honteuse avec laquelle, manquant à leurs propres engagements, ils se seraient soumis à la plus odieuse tyrannie. La révocation annoncée par ma note à M. Armstrong est donc nécessairement subordonnée à l'accomplissement de l'une ou de l'autre des deux conditions annoncées... »

Meanwhile, Armstrong, still in general unsuspecting of the double dealing surrounding him, determined, nevertheless, to try to clear up a few points on which he was in doubt before leaving France, his plans being made to quit Paris on September 12, 1810. On August 20[1], he wrote to Champagny, asking what the operation of the Rambouillet Decree and the Decree of July 25 would be, both before and after November 1, 1810. Was the former revoked with those of Berlin and Milan? Would the latter prevent American ships from leaving French ports if not provided with Imperial licenses?

Before replying, Champagny submitted Armstrong's questions to Napoleon for an answer on August 31, 1810[2]. In spite of the Minister's usual passive rôle, his suggestions

1. Arch. Aff. Ét., Corr. Dip., E. U. 64, Fo. 167.
2. Arch. Nat., AF IV 1681 A. No. 3-125.

for a reply showed a certain initiative, and certainly a penetrating insight into the American attitude toward the license system and Armstrong's psychology in regard to the letter of August 5. Champagny's preference not to commit his government to paper was a frequent characteristic of Napoleonic diplomacy. He suggested to the Emperor that the American Minister should be informed that the Rambouillet Decree might be considered recalled since August 5, period at which the repeal of the law for which it had been a reprisal had been known in Paris. As for Armstrong's second question regarding the operation of the Decree of July 25, Champagny wrote to Napoleon :

« ... La solution de la deuxième question me paraît plus difficile. Elle tient aux vues de Votre Majesté pour l'avenir dont je crains de ne pas embrasser toute l'étendue. Si son intention est qu'on ne puisse plus faire le commerce de France que par licence[1], sans doute elle n'autorisera pas la sortie des bâtiments qui ne seront munis de licence. Je ne crois cependant pas convenable de le déclarer à M. Armstrong. Votre Majesté ne renonce pas au commerce d'Amérique et il pourrait être éloigné par l'annonce de ce système exclusif des licences pour lequel les Américains, comme tout peuple essentiellement commerçant ont une extrême aversion... Je préférerais cependant, faire dire verbalement à M. Armstrong qu'il peut regarder comme rapporté le décret du 25 mars[2] et qu'à l'égard de celui du 25 juillet, je ne saurai lui répondre que lorsque la détermination de l'Angleterre et celle de l'Amérique seront connues.

1. Champagny's admission of his lack of knowledge of Napoleon's intentions regarding the license system is an interesting indication of the extent to which it was a *personal* policy of Napoleon's.

2. The Rambouillet Decree. — It had been antedated and is sometimes spoken of either as the Decree of March 23 or March 25.

« M. Armstrong, qui avant son départ ne veut engager aucune de ces questions difficiles qu'il prévoit devoir s'élever entre les deux gouvernements, pour arriver en Amérique sans avoir vu flétrir la gloire qu'il attache à avoir obtenu la note du 5 août, se contentera de cette réponse... »

Armstrong, impatient for his reply, which Champagny and Napoleon were thus preparing, submitted a second note on September 8, 1810, repeating his question[1]. He asked further regarding the nature of licenses, as to whether they were « merely substitutes for clearances? or do they prescribe regulations to be observed by the holders within the jurisdiction of the United States? » Practically no information had leaked out to him, so well guarded was the secret of the trade, save the fact the Decree of July 25 provided for licensing American boats to commerce with France.

On September 12[2], Champagny replied to Armstrong's notes of August 20 and September 8, in writing, apparently against his judgment, for as will be seen, his name was signed to several questionable statements therein. As for the Rambouillet Decree, he declared it recalled from the time when the Non-Intercourse repeal had been known in France. In regard to the execution of the decree of July 25, it was stated that vessels laden with

1. MSS. State Dept., Dsps., France 11, Sept 8., 1810, Armstrong to Champagny.

2. Arch. Aff. Ét., Corr. Dip., E. U. 64, Fo. 203.

The note also stated that American ships on either French or American account, would be received, and that merchandise confiscated as reprisals would not be given up.

raw materials of American production would be freely admitted, and as for departure from French ports, « *lorsqu'ils n'auraient pas laissé dénationaliser leur pavillon en se soumettant aux actes du Conseil Britannique, il pourront également en sortir...* »

That that statement was a trap, was amply shown by instructions to Prince Lebrun, Lieutenant-General in Holland, sent by Napoleon on August 20, 1810[1]. Therein it was plainly stated that no boat could leave French harbors unless in possession of an Imperial license, for every ship without one had violated the blockade and paid duty to the English :

« Mon cousin, » he wrote, « l'article 1^er^ de mon décret du 25 juillet 1810, portant qu'à dater du 1^er^ août aucun bâtiment ne pourra sortir de nos ports à destination d'un port étranger, s'il n'est muni d'une licence signée de notre main, s'applique à toute espèce de bâtiment français, neutres ou étrangers quelconques, avec cette exception que je n'accorde de licence qu'à des bâtiments français ; c'est-à-dire, en deux mots, que je ne veux aucun bâtiment neutre, et effectivement il n'y en a aucun qui le soit réellement. Ce sont tous bâtiments qui violent le blocus et qui payent rançon aux Anglais. »

As for Armstrong's question regarding the exact nature of licenses granted Americans, he was put off with indefinite and clumsy attempts at flattery which pointed out the extraordinary favour conferred on the Americans that they should receive licenses at all. There was also a veiled but ominous hint that Napoleon expected more than

1. *Correspondance de Napoléon*, XXI, no. 16810. Lebrun was *Archi-Chancellier* of the Empire.

the Americans had so far been willing to do to make the English respect their flag.

«... L'Empereur a donné des licences, » continued Champagny's note, « à des bâtiments américains. C'est le seul pavillon étranger qui en ait obtenu. En cela Sa Majesté a voulu donner un témoignage des égards qu'elle aime à montrer aux Américains. Si elle est peu satisfaite de ce qu'ils ont pu réussir à faire respecter leur pavillon, du moins voit-elle avec plaisir qu'ils sont loin de vouloir reconnaître les principes tyranniques de la Législation Anglaise... »

There was no reply to Armstrong's question as to whether or not any features of the license system prescribed « regulations to be observed by the holders of them within the jurisdiction of the United States. » He, as well as his government, would have been horrified had they read Champagny's instructions of August 22, 1810 to the French Consuls in New York and Charleston[1]. They outlined the workings of the system, enjoining the most profound secrecy on the Consuls and on the recipients of the licenses. « Permits » were to be issued to American ships by the Consuls, under the most elaborately prescribed rules. The orders clearly infringed on the sovereign rights of the United States, in giving to a foreign agent the right to control the number and nature of American shipments to France.

The letter of September 8, 1810, to Champagny was practically Armstrong's diplomatic swan-song : « Expressing on this occasion the sense I shall carry with me of

1. Arch. Aff. Et., Corr. Dip., E. U. 64, F° 171. Champagny to? (not named), but evidently instructions to the French Consular authorities at Charleston and New-York.

the many obligations I am personally under to Your Excellency, » Armstrong concluded his note and his mission to France.

Champagny had not been far wrong in judging that the American Minister could be easily put off by vague replies to his queries, for Armstrong was in fact weary of the endless and heretofore seemingly resultless negotiations with Napoleon. Stifling what misgivings he was beginning to have, he sailed for America from Bordeaux at the end of September. He left as Chargé d'Affaires, Jonathan Russell, whose quick eye was soon to perceive the real trend of affairs. During the next year he was amply to discover that American relations with France were at their worst at the moment of Armstrong's departure, and that questionable faith had attended the August-September 1810, negotiations.

The disavowal of the Erskine agreement and the unsatisfactory character of the Jackson mission left Anglo-American relations unimproved in 1809-1810. As for Franco-American relations, they had been far from ameliorated by the Non-Intercourse Act of 1809, which had served as the pretext for the Rambouillet Decree. Congress having replaced that Act by the Macon Bill n° 2, Napoleon prepared the letter of August 5, 1810, as a reply.

Napoleon thereby caught the too eager Americans in a wellnigh inextricable situation. The Erskine Agreement had been quickly disavowed and in no way had the British Government, as such, attempted to mislead the United States. But the August 5th letter had been the idea of Napoleon and its development had received his personal supervision. It was obviously his aim to

draw American ships into his ports, so that they might be seized and their rich cargoes confiscated and sold, and to interpret America's acceptance of his note as a promise on her part to use arms against England if the Non-Intercourse failed to bring the revocation of the Orders in Council. The American Administration's action on the note of August 5th was to place the United States in the position into which Napoleon had long been hoping to see it. At last America was to take action against Great Britain as a result of his bid for her influence by causing her to revive her anti-commercial measure against England. When that policy failed, and the Emperor cried « not enough », how far was the actual step to war in reply to his behest? Until the Autumn of 1810, when she first received the note of August 5, America saw only a diplomatic triumph for herself and the fulfillment of her desires, — one belligerent brought to a path of justice by peaceful coercion. The other belligerent she prepared to deal with in accordance with her views of her obligations under Macon's Bill, by reviving Non-Intercourse with England. But she had placed herself under obligations to France by accepting the note of August 5. Having contracted a diplomatic debt to Napoleon, the United States was to learn that mutual agreement was not to determine the amount due, but rather the Emperor's own interpretation of the extent of the debtor's liability.

CHAPTER IV

The Problem of the Revocation of the Berlin and Milan Decrees, 1810-1811.

> « ... No one here except the Emperor knows if the Berlin and Milan Decrees be absolutely revoked or not... but this is of little importance as the construction which the Emperor may choose to adopt will alone prevail... »
>
> Jonathan Russell[1].

Cadore's letter of August 5, 1810, became the pivot on which American policy turned from the time that its contents were known in Washington until the declaration of war against England in 1812. Its ambiguity admitted of several interpretations. The government of each country, America, England and France, adopted the one which pleased it. The United States from the first took the ground that the letter had been written in good faith, and even when the overwhelming weight of contrary evidence appeared on every hand, she stood immutably by the interpretation that she had accepted. Equally firmly, England declared that Cadore's communication was not to be depended upon, and that until some incontrovertible proof of the revocation of the decrees

1. MSS. State Dept., Dsps., France 12, Russell to R. Smith, Dec. 4, 1810.

should be given, — an Imperial decree repealing the decrees and not a mere note from the Minister of Exterior Relations to the American Minister in Paris, — until then, the British Orders would be relaxed not at all. As for Napoleon, who, as Armstrong once wrote of him, « was born to keep the world a-wondering[1] », it was soon clear that he alone held the key to the situation, and that he would proceed to play upon the circumstance as best pleased him and to his own advantage. The Americans, walking so easily into his trap, had at last placed themselves where he had long wanted them, in the position of formulating a foreign policy and of persisting in it on the basis of acceptance of one of his promises which soon proved to be hollow. So completely did his ruse work that, while pretending to make the first step in carrying out the « bargain » which the letter of August 5th proposed, he compelled the Americans to pay first, and, professing to find their payment insufficient, delayed the fulfillment of his part of the agreement.

President Madison's action in issuing his Proclamation of November 2 may well be judged hasty and ill-advised. Especially does his unqualified acceptance of the French letter as a document of good faith appear a subject for severe criticism at the present day when open Archives reveal the faithlessness and intricacies of the diplomacy of the time. Nor was it the first occasion on which Madison had acted too quickly on the unsubstantiated prom-

1. Armstrong MSS. Library of Congress L Ac 1081, to Monroe, March 18, 1810.

ises of a foreign government. The Erskine affair had evidently not taught him necessary suspicion and discretion. But given the fact that he could not know more of French policy than the Emperor wished him to know, (the issuing of the secret Trianon decree and Cadore's letter on the same August 5, being one striking case of the double dealing with which he was surrounded), he had some ground to have, indeed if diplomatic correspondence were to accomplish anything, he was obliged to have, a certain amount of confidence in his correspondent, else relations between the nations could mean nothing. As for the failure of the Erskine agreement, « true specimen of modern diplomacy[1], » to open the Administration's eyes, the unfortunate affair had resulted from the misuse of instructions by a Minister far removed from the immediate eye of his government. Cadore's letter, while Madison could not know that it had been composed by Napoleon, he knew at least to have passed under the Emperor's eye for approval. The Emperor he knew for a hard and unscrupulous diplomat, but personal experience, which is the best teacher, had so far acquainted him with the first rather than with the second characteristic.

What is even more difficult to understand in the President's action, is how he could have put aside so easily the *sine qua non* which he had declared, in instructions to Armstrong on June 5, and July 5, 1810, must precede any arrangement with France under the Macon Bill No 2. The stipulation was that no agreement could be entered

1. Armstrong, cf. p. 107 above, note 2.

into by the United States if the recent seizures under the Rambouillet Decree had been followed by absolute confiscation[1]. Champagny's letter of September 12, to Armstrong had stated that the confiscations were permanent and not reversible :

« ... Quant aux marchandises confisquées, comme elles l'ont été par mesure de représailles, les principes de représailles doivent faire loi dans cette matière[2]... »

To that unconciliatory statement Armstrong had made no protest and Madison instructed Russell to declare in the face of Champagny's denial, that America did not consider the confiscation to be final[3]. He insisted that in the letter of August 5, he saw and recognized no condition precedent imposed by France. The Macon Bill had given him the right to suspend intercourse with Great Britain provided that France should first so modify or revoke her decrees that they should cease to operate unfavourably on American commerce, and *vice versa*. He was given no power to suspend commercial relations with England in order thereby to obtain a relaxation or withdrawal of the French measures. Therefore, determinedly interpreting the letter of August 5 as containing no demand for the fulfilling of a condition precedent in its « bien entendu » clause, Madison issued his Proclama-

1. *Am. St. Ps., For. Rels.*, III, 384. Instructions to Armstrong, June 3, 1810.

2. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 205. Champagny to Armstrong, September 12, 1810.

3. Arch. Aff. Et., Corr. Dip., E.-U., 64, f° 12, 1810. Russell to Champagny, Dec. 17, 1810.

tion of November 2, 1810[1]. It declared in unequivocal terms that the French government had revoked its Decrees, and that from November 1, 1810, they ceased to have effect, conformably to the letter of August 5. Any American measure inimical to France was to cease to operate from November 2. If England had not, by February 2, 1811, revoked or modified her Orders in Council, sections 3, 4, 5, 6, 7, 8, 9, 10, and 18, of the Non-Intercourse Act of March 1, 1809, should be revived against her.

The absolutely opposite interpretations of Cadore's letter, as held by the French government and the American, is clearly shown by the juxtaposition of passages from documents written by Champagny and Russell *à propos* of the attitudes of their governments.

Champagny wrote to Turreau on August 23, 1810, enclosing his letter of August 5 to Armstrong and giving instructions to the French Minister in Washington as to the attitude he was to assume in interpreting it[2] :

« Sa Majesté m'a autorisé à faire connaître ses dispositions bienveillantes envers les États-Unis par une note que j'ai adressée de ma part à M. Armstrong et dont j'ai l'honneur de vous envoyer une copie ci-jointe.

« Les Décrets de Berlin et de Milan seront révoqués par Sa Majesté et cesseront d'avoir leur effet le 1er novembre prochain, bien entendu que les Anglais révoqueront leurs arrêts du Conseil, ou que le Gouvernement fédéral, conformément à son acte du 1er mai dernier, leur fera respecter ses droits.

« La décision de Sa Majesté est donc conditionnelle.

1. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 227. Copy of Madison's Proclamation of November 2, 1810.

2. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 84. Copy. Champagny to Turreau, Aug. 23, 1810.

Son exécution dépend des mesures que prendraient les États-Unis si l'Angleterre persiste dans ses ordres du Conseil et dans les principes de blocus qu'elle a voulu établir...

« Après avoir fait pour les États-Unis tout ce qui peut se concilier avec la dignité de sa puissance et avec les intérêts de tous les neutres, Sa Majesté désire que le gouvernement américain se montre animé des mêmes dispositions et tienne fermement à assurer l'indépendance de son pavillon et de son commerce.

« Voilà, Monsieur, le but auquel vous devez amener le gouvernement des États-Unis. Il tient entièrement à lui que de nouveaux rapports plus intimes et plus conformes aux vues bienveillantes de Sa Majesté s'établissent entre les deux États. Leur interruption et les mesures de rigueur qui ont eu lieu de part et d'autre ont entraîné des dommages mutuels, et s'ils ont été plus grands pour les États-Unis, on ne peut oublier que les Américains avaient pris l'initiative de ces mesures par leur acte du 1er mars 1809.

« Écartez donc, Monsieur, toute discussion sur le passé, à moins que je ne vous adresse à cet égard des instructions ultérieures, et attachez-vous à assurer pour l'avenir les rapports de bonne intelligence dont Sa Majesté désire le rétablissement et le maintien entre les deux puissances... »

The significance of those instructions cannot be exaggerated, as disclosing the true intentions of the French government in sending the letter of August 5. The whole policy for the next two years was exposed. The execution of the provisions of Cadore's note was frankly conditional on America's first satisfying Napoleon by taking measures sufficiently efficacious to force England to desist from her Orders. War against Great Britain was not mentioned openly as the real condition to the absolute revocation of the decrees, but the veiled insinuations

pointed to that. The crowning piece of daring was contained in the disclosure of the aim to place upon America the blame of the original sin in bringing about the unfortunate commercial situation.

Meanwhile, Madison's interpretation of the state of affairs was set forth by Russell in a note to Champagny, when on December 27, 1810, he announced the President's Proclamation of November 2[1].

« In communicating the inclosed proclamation of the President of the United States, to Your Excellency, » he wrote, « I am instructed to say that it has been issued alone on the ground that the revocation of the Berlin and Milan decrees did not depend on any condition to be previously performed by the United States, and that it does comprise an extinguishment of all the edicts of France actually violating their neutral rights. If the ground thus taken be correct, the United States consent to be considered as pledged to renew their Non-Intercourse with England, and to continue it not only until her orders in Council be rescinded, but until her illegal blockade of May 1806, prior to the date of the Berlin decree, be repealed.

« It ought, however, to be distinctly understood that the United States in giving this pledge, act from the persuasion that the sequestration of American property under the Imperial Decree of the 23rd of March last, is not absolute and final, but that it is still open for discussion, and reversible according to practice and public law...[2].

« I need not observe to Your Excellency that the proclamation of the President is the leading measure of the system adopted against Great Britain and announces the fact of the Berlin and Milan decrees being revoked, and that

1. Arch. Aff. Et., Corr. Dip., E-U. 64, f° 127. Russell to Champagny, Dec. 27, 1810.

2. That the United States refused to recognize licenses was also set forth in the letter.

of course, upon this revocation the whole system essentially depends and should therefore those decrees contrary to the just expectation of the President founded on the unequivocal declarations of Your Excellency, be permitted still to operate in violation of the rights of the United States, he cannot hesitate to retrace his steps, and to place upon equal terms two nations equally offending... »

Napoleon knew as well as Madison that the American Administration would not very gladly replace the two belligerents on equal terms nor very eagerly seek to find proof that it had acted ill-advisedly in accepting Cadore's letter. He knew the embarrassing situation in which the American government found itself, driven from pillar to post by foreign aggressions and bitterly attacked by party faction within. The wavering, dissatisfied and sullen temper of the Congress which had passed the Macon Bill, had seemed to indicate that the last card in the policy of peaceful coercion upon which for ten years the administration party had staked its all, had been desperately played. If that failed to separate their aggressors, what was then left but abject submission or war with both? National spirit was not yet so lost that it would agree to the former, and the prospect of the latter eventuality was enough to alarm a great nation and certainly the young Republic. In that psychological situation, Napoleon felt that the Americans would blindly welcome, and not « fear the Greeks bearing gifts. » Nor was he deceived in his conjecture, as shown by the reception accorded the letter of August 5.

The English were not so easily persuaded as the Americans. On August 5, Armstrong had transmitted to

William Pinkney in London, a copy of Cadore's note. On August 25, 1810, the American Minister to England communicated the intelligence to Lord Wellesley, stating unequivocally that the French decrees were revoked, information having been given to Armstrong in a letter to that effect from the French Minister of Exterior Relations on August 5.

« ... I take for granted, » wrote Pinkney to Wellesley, « that the revocation of the British Orders in Council of January and November 1807 and April 1809, and of all other orders dependent upon, analogous to, or in execution of them, will follow of course, and I shall hope to be enabled by your Lordship, with as little delay as possible, to announce to my government that such revocation has taken place[1]... »

The Marquess of Wellesley, successor to Canning, and equally arbitrary if less haughtily aggressive, received the communication. The English, to whom the Orders in Council were an article of faith in their maritime creed, not only as instruments against France but as checks on the growing commercial power of America[2], would naturally have been the last to overlook the irregularities and ambiguities of such a « revocation » as Cadore had announced. Knowing that an Imperial decree alone could repeal an Imperial decree, and that a note from the

1. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 178. Copy of letter from Pinkney to Wellesley, August 25, 1810.

2. Cf. W. E. Lingelbach's *England and Neutral Trade* (in Milit. Econ. Hist. II, 157-163) cited by R. Adams, *o. c.*, 116. Corrects older opinions regarding aims of British Orders. Points out that they were meant to harm not only French trade but the American, a menacing competitor to the English.

Minister of Exterior Relations to the American Minister in Paris could not substitute for that necessary machinery, Wellesley replied to Pinkney's note in a cool and trenchant manner. He did not even take notice of, or comment on, the American Minister's statement that the government of France had revoked her decrees of Berlin and Milan. Protesting the original sin of France in establishing the existing commercial situation, Wellesley stated that the British government would relinquish its policy, « whenever the repeal of the French decrees shall have actually taken effect[1]. »

Madison issued his Proclamation on November 2, in spite of the hinted warning contained in the above correspondence which he had received just before taking his decisive step. He equally disregarded Federalist warnings, growing ever louder, and following the lines of Wellesley's reasoning. It was not unnatural, however, that the President and his party should have had little confidence in such interested judgments as Wellesley and the Federalists brought to bear on the revocation of the French decrees.

So eager, in fact, was Madison to prove his faith in the letter of August 5, that he issued his Proclamation on November 2 without having heard directly from Armstrong regarding the note, for that Minister's despatches since early August had been delayed and did not arrive until November 1, after the Proclamation had been prepared. The text of the note, along with the correspon-

1. Arch. Aff. Et., Corr. Dip., E-U. 64, f° 178. Copy of letter of Wellesley to Pinkney, not dated. In reply to Pinkney's note of August 25, 1810.

dence of Wellesley on the subject, had been sent by Pinkney and had served as the basis of the Administration's determination of policy. Turreau, in reporting a conversation held with Secretary Smith on October 31, 1810, pointed out, not without a hint of surprise in his tone, that the American government had accepted and acted upon such indirect information.

« ... V. E. voudra bien observer, » he wrote to Cadore[1], « que l'Exécutif n'a point encore reçu directement le rapport de M. Armstrong sur le rappel des décrets de S. M. et que, n'ayant rien reçu moi-même, je n'ai pas pu suppléer au silence du Ministre américain.

« Quoique nous n'ayons rien reçu d'intéressant de M. Amstrong sur ce sujet, continue M. Smith, ce qui est fort extraordinaire, nous considérons la communication qu'il en a donnée à M. Pinkney et que celui-ci nous a transmise, comme officielle et satisfaisante pour la détermination du gouvernement fédéral... »

On November 2, Turreau wrote again to Champagny, reporting the President's Proclamation and the fact that the Secretary of the Treasury had given the orders to the Customs officers in the various districts to render it effective, Gallatin having issued a circular to that effect[2]. He reported a further conversation with Smith and one with Gallatin. Both Smith and Gallatin, wrote Turreau, had severally expressed their beliefs that war might well be expected to be declared by England as a result of the re-

1. Arch. Aff. Et., Corr. Dip., E.-U. 63, f° 250, n° 1. Turreau to Champagny, Nov. 1, 1810.

2. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 256. Gallatin's Treasury Dept. Circular, Nov. 2, 1810.

vival of the Non-Intercourse Act. As for himself, Turreau believed that war would more probably result from the initiative of the Americans.

« ... Je profite de ce délai[1], » he wrote to the Minister of Exterior Relations, « pour rendre compte succinctement à V. E. d'un nouvel entretien encore provoqué par le Secrétaire d'Etat qui m'a dit : ' L'Exécutif pense que les mesures qu'il prendra, dans le cas où l'Angleterre continuerait d'entraver nos communications avec l'Europe, conduiront nécessairement à la guerre parce que l'exécution des articles 1, 2 et 3 de la loi, relatée dans la circulaire du Secrétaire du Trésor, non seulement empêchait toute espèce de communication avec la Grande Bretagne, mais même assimilait en quelque sorte cet acte prohibitif au fameux *Navigation Act* qui a fait sa prospérité commerciale, ' etc.

« Il m'a expliqué que le résultat de ces mesures était de prohiber toute espèce de produits anglais, agricoles et manufacturiers, venant directement d'Angleterre, ou de ses colonies ou de toute autre partie quelconque et sur quelques bâtiments que ce soit, même américains.

« En sortant de chez le Secrétaire du Trésor, » he continued, « dont l'opinion dans le Conseil nous est rarement favorable (je le sais depuis longtemps, mais j'ai conservé des liaisons étroites avec lui parce qu'il est le seul qui me fournit de temps à autre des renseignements sur la statistique du pays). M. de Gallatin, d'ailleurs brouillé depuis longtemps avec M. Smith[2], m'a dit qu'il croyait à la guerre, que l'Angleterre ne pouvait pas souffrir l'exécution de mesures qui lui étaient si préjudiciables, etc...

« ... Il est difficile à croire que l'Angleterre souffre ce nouvel acte d'émancipation de la part des Américains, »

1. Arch. Aff. Et., Corr. Dip., E.-U. 63, f° 256. Turreau to Champagny, November 2, 1810.

2. The outcome of that inimical relationship in the Cabinet will be discussed later.

continued Turreau, giving his own opinion of the situation, « mais j'ajouterai que j'ai encore plus de confiance pour une rupture décidée entre les puissances, à la volonté très déterminée de l'Exécutif de se soustraire au joug habituel de la Grande-Bretagne...

« ... Telles sont aujourd'hui, en dernière analyse, les dispositions de l'Exécutif que je ne puis plus raisonnablement douter que les Américains résisteront à l'Angleterre et que ces deux puissances en viendront à une rupture... »

With such a report as Turreau's in his hand, it was not astonishing that Napoleon should have thought his plans to be working very well. Meanwhile, November passed, and the Administration waited vainly for signs of relaxation from England and for assurances from France that the Berlin and Milan Decrees were revoked and had ceased to have effect after November 1.

In December, the Eleventh Congress met for its second session. A more divided and irresolute body could scarcely be imagined. With the Federalists and Republicans ranged in hostile camps over the government's foreign policy, the bitterness but not the vigour of the Embargo days returned. In his Annual Message sent on December 5[1], Madison rendered an account of his stewardship and expounded the motives leading him to issue the Proclamation of November 2. He expressed his complete confidence that the revocation of the French Decrees had been absolute since November 1. He regretted that American property sequestered in French and allied ports had not been restored. As for England, she

1. H. Adams, *o. c.*, V, 318. Cf. Richardson, *Messages and Papers*.

had not so far made any sign of relinquishing her blockades or Orders. The withdrawal of the Blockade of May, 1806, as well as the subsequent Orders, had been required by the President as a condition to a completely amicable arrangement with Great Britain. In the same Message, Madison again brought up the favourite question of the Floridas. Conditions had recently changed in West Florida, and America, to whom he claimed the land belonged by right of purchase, might well consider taking possession of it.

It was indeed difficult to explain as absolutely aboveboard the government's attitude toward Florida. Revolutions such as were beginning to shake the colonial Empire of Spain, had been felt there. Madison had issued a Proclamation on October 27, 1810, directing that Governor Claiborne of the Orleans Territory should take possession of Florida to the Perdido River for the United States[1]. Smith explained to Turreau that the American move was made to prevent the land from falling into the hands of the British[2]. In his desire that the United States should possess all of Florida, Madison sent a secret Message to Congress on Juanary 3, 1811, asking that authority be granted to seize East Florida also, should the local authorities agree, or should any foreign power attempt to occupy it[3]. The Eleventh Congress, however, did not solve the problem. It remained for consideration by the Twelfth, and gave Napoleon another oppor-

1. *Am. St. Ps., For. Rels.*, III, 397.

2. Arch. Aff. Et., Corr. Dip., 63, Turreau to Champagny, Nov. 1, 1810.

3. H. Adams, *o. c.*, V, 326-327.

tunity to pull his favourite string and to make the Administration reach for the plum just beyond its grasp.

Meanwhile, the weeks passed, and Congress had accomplished little. Federalists and Republicans had struggled bitterly over the renewal of the Charter of the United States Bank, and the refusal to renew, voted by the Republican majority, opposed to the institution which the Federalist Hamilton had created, threatened to weaken appreciably and at a crucial moment, the country's financial stability. The influence of the Smith faction in Congress was used against renewal, because Gallatin, their enemy, found the Bank the most efficient aid which he had for administering his Department successfully. A change in the Cabinet, highly significant for the administration of the country's foreign affairs, will be seen to have occurred in March-April 1811, as a result of the cabal to discredit the Secretary of the Treasury by defeating the Bill to recharter the Bank.

Having put off the fatal day as long as possible, Congress was obliged at last to turn its reluctant attention to the task of approving, and supplementing, by legislation, the President's Proclamation of November 2, or, as some Members advocated, of repudiating the President's « contract » with France which it was beginning to be clear the latter was not carrying out according to the Administration's forecasts. Obviously, no yielding could be expected from Great Britain.

On January 15, 1811, John Eppes, Republican from Virginia, reported a bill regulating commerce with England, which should act as a non-importation measure rather than as a total non-intercourse law. The hesitant

Congress, however, laid it on the Speaker's table and no action was taken, although February approached[1] and February 2 was the day on which the Non-Intercourse, proclaimed by the President, should go into effect.

A letter under date of December 14, 1810, was received from Bordeaux at that critical moment and it threw Congress into an uproar. It announced that an American vessel, the *New Orleans Packet*, had arrived there in December and had been sequestered under the French Decrees. That news alone was gravely compromising to the Administration's contention that the French Decrees were revoked. Then came a letter from Russell, stating that he knew of the arrival of no other American vessels since November 1, which had not been licensed. By February 1, 1811, it was known in America that remonstrances addressed by Russell to Cadore on that subject on December 10, 1810, had remained unanswered. It seemed clear enough to most men, and was admitted freely by those who had not staked their word, their dignity, and, as they believed, their honour, on the repeal of the French decrees since November 1, that France had imposed on America, an as yet, unaccomplished condition precedent.

A survey of the addresses in Congress during February, 1811, shows interestingly the pitch to which feelings were aroused. One group of Members, made up largely of Federalists and a few disaffected Republicans, such as John Randolph, insisted that Napoleon had trapped the government by his letter of August 5, and that the Admin-

1. H. Adams, *o. c.*, V, 338-339.

istration, with its eyes quite open, was bent upon maintaining the « bargain with the devil ». The Republican group stoutly declared the revocation to be real. The disquieting news from Europe would be quickly explained when the next mail arrived. The American government's good faith was pledged to carry out the measures which had been promised. The President's Proclamation must be supplemented and confirmed by an Act of Congress.

The question of commercial intercourse occupied Congress during the month of February. Impassioned addresses followed each other rapidly. Bitter personal innuendoes regarding gentlemen who were swayed by « French » or « English influence » filled the air. The whole debate hinged on the apparently simple formula, — were the Berlin and Milan decrees revoked? Had the Rambouillet Decree ceased to operate?

James Emott of New York ably addressed the House on February 1, summing up practically all the criticisms that had been made of the Administration's policy in accepting them as revoked[1] :

« ... If indeed, the President has been deceived, or was mistaken, we cannot too soon make it known and relieve the country from the embarrassment which must result from the present state of things...

« Mr. Chairman, when the proclamation first appeared, my impression was, and such, too, I undestood to be the general impression, that the President had some document unknown to the American people. The letter of the Duke of Cadore, was already before the public, but it

1. Benton, *Abridgments of the Debates of Congress*, IV, James Emott, Feb. 1, 1811, House of Representatives.

was not credited that on this letter the proclamation had been issued. Since we have had the message [1] the subject is at rest. It is now acknowledged that the President had not, and to this moment has not, any other evidence of a revocation. Now, sir, in this letter, I see neither the form not the substance of a revocation...

« I remark first that the revocation, if it be one, was a future and not a present revocation. 'The decrees of Berlin and Milan are revoked, and after the first of November, they will cease to have effect.' Now sir, although there is an affected obscurity in this sentence, the intent is most obvious...

« But again, the revocation, if any, was not only future, but it was also conditional, 'it being understood that in consequence of this declaration the English shall revoke their Orders in Council and renounce the new principle of blockade which they have wished to establish, or that the United States... shall cause their rights to be respected by the English.' A condition, a qualification, a restriction...

« But how are we to cause these rights to be respected? By putting in force the non-importation law? Suppose the British should not believe themselves excessively injured by this measure, that in fact, it operated to their advantage, and we are suffered to bring on premature decay and old age, by this political quackery. Would this satisfy the Emperor? No, sir. He would soon tell us that we had not caused our rights to be respected. It is idle to believe that he would deem the non-importation a compliance with his condition, nor to me, does his language convey this idea. We are to oppose, or declare ourselves against the British, and in the spirit of our laws and of his declaration, we are to cause our rights to be respected, not by self-destroying measures, but by actual force and open hostility, if the English nation will not, without it, subscribe to the terms which have been presented to it...

« At all events, I think that the President, before he

1. The Annual Message of December 5, 1810.

acted on a proposition so loose and general, which admits of so much doubt, and can, by fair construction, be carried to such extravagant lengths, ought to have asked and received explanations and particulars... »

Emott closed his tirade in which he had so openly accused the Administration of rash and ill-advised action, by referring to the final proof that they were still in existence, since the *New Orleans Packet* had been seized in Bordeaux under their authority in December, 1810. He had brought out more or less at length the main points of opposition reasoning, and as subsequent events showed, he and his party were not far deceived in their opinions.

The next day, February 2, sections 3, 4, 5, 7, 8, 9, 10, and 18, of the Non-Intercourse went into effect automatically, as provided by the Proclamation, and Congress, meanwhile, debated as to whether it should sustain, modify or rebuke the President's action. The picturesque eloquence of John Randolph denounced, that day, the theory which the Republicans held of having made a « contract » with Napoleon [1].

« ... This is the 2d of February. The time has arrived, the hour now is, when gentlemen by their own arguments, if their arguments be just are bound to fulfil the contract, which I do not undertake to expound, but which they say has been made — certainly in a manner novel to our Constitution — between the House of Representatives on the one hand and Bonaparte on the other, — a bargain which, like the bargains of old with the devil, there is no shaking off. It is a bargain which credulity and imbecility enter into with cunning and power... »

1. Quoted by H. Adams, *o. c.*, V, 344. Speech of February 2, 1811, in the House.

In his opposition to the Administration, Randolph went so far as to move the repeal of the Non-Intercourse Act of March 1, 1809, thereby nullifying the President's Proclamation, and thus offering to Madison a way out of the difficult « dilemma in which he must now stand »[1]. That measure, designed to discredit the Administration, failed, but debates continued and waxed ever more bitter. There is no better way to sense the spirit of the period than to read the records of the session.

In the midst of the turmoil, a significant note was sounded by the Federalist, Josiah Quincy of Massachusetts, who, after a heated denunciation of Napoleon, called upon the American people to assert its independence of both belligerents, — a new note.

« ... The true nature of this Cadore policy is alone to be discovered in the nature of his master, » declared Quincy on February 23[2]... « Napoleon hesitates at no means, and commands every skill... He found our Administration a pen and ink gentry — parchment politicians; and he has laid for these ephemereal essences, a paper fly-trap, dipped in French money. Hercules, finding that he could not reach our Administration with his club, and that they were out of their wits at his lion's skin, had condescended to meet them in petticoats, and conquer them spinning at their own distaff.

« As for those who, after the evidence now in our hands, deny that the decrees exist, I can no more reason with them than with those who should deny the sun to be in the firmament at noon-day. The decrees revoked! The formal statute act of a despot revoked by the breath of his servile minister!... the den of the tiger safe!...

« The whole bearing of my argument is to this point.

1. H. Adams, *o. c.*, V, 341.
2. Benton, *Abridgments*, IV, J. Quincy, February 23, 1811. H. of R.

It is time to take our own rights into our own keeping. It is time, if you will not protect, to refrain from hampering, by our own acts the Commerce of our country. Put your merchants no longer under the guardianship and caprice of foreign powers. Punish not, at the instigation of foreign powers your own citizens for following their righteous calling. We owe nothing to France. We owe nothing to Great Britain. We owe everything to the American people. Let us show ourselselves really independent; and look to a grateful, a powerful, and then united people, for support against every aggressor... »

Meanwhile, the Administration was hard put to it to reply convincingly to its critics. Having only proof in hand that the Berlin and Milan Decrees had been exercised against American ships at Bordeaux after November 1, and that no vessels were permitted to leave France without a license, it was not easy to maintain that the measures were revoked. But that revocation they *did* maintain, falling into the most obscure and metaphysical explanations for the Emperor's method of revocation. Cheeves, of South Carolina, had expounded the idea that whatever the form of the revocation, however seemingly irregular in being contained merely in a Minister's note, it was nevertheless real since the Emperor had willed it. Eppes, Republican from Massachusetts, Chairman of the House Committee on Foreign Relations, was one of the leading defense speakers. But his arguments did not meet the questions raised by the opposition. He was obliged, instead of convincingly disproving Emott's charges, to resort to personalities and to decry the « English influence » pervading the House.

« ... A gentleman from New York, (Mr. Emott) pre-

sented to the House... his view of foreign relations, » declared Eppes[1], « and exercised all his ingenuity to show, as it is but too often the practice here, that the government of the United States, is exclusively wrong, and the government of Great Britain exclusively right. It seems that in this enliglatened age new duties are assigned to a Representative. Under the pressure of every injury which foreign influence can inflict, a Representative is considered as discharging his duty if, with a fine-spun webb, he can present, under a suspicious aspect, either the motives or the acts of the executive branch of the government... »

Inaptly, Eppes pointed out that Emott had been among those who had eagerly applauded the Erskine agreement, not waiting for confirmation of the glad news, but urging the President to accept it in good faith. Now Eppes reproached Emott for wishing to deny the Administration's right to accept blindly, similarly unconfirmed assurances of French concessions. The fallacy of such reasoning was obvious. One mistake did not excuse another.

So the battle of words continued. At one moment it seemed probable that it would become a battle of swords in some cases, for Randolph challenged Eppes to a duel during the stormy day of February 27-28. The quarrel was settled, however, through the intermediary of the President's wife. The successor of Turreau, writing to Champagny on March 4, 1811, mentioned the affair[2] :

« ... Le duel de MM. Randolph et Eppes, a été converti

1. Benton, *Abridgments*, IV, Eppes, Feb. 1, 1811, H. of R.
2. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 50. Sérurier to Champagny, March 4, 1811.

en un accommodement par Made. Madisson (*sic*). Le Fédéraliste[1] a fait des excuses au Républicain. Tout le monde est étonné d'une issue aussi contraire à l'usage, et tout l'honneur de l'affaire est resté à Made. Madisson... »

Unable to bring order from its internal chaos, Congress hoped that the arrival of Turreau's successor would mean new and definite information regarding the situation in France and a knowledge of the true state of affairs as to the Berlin and Milan decrees. But Sérurier, who was presented to Madison on February 15, had brought with him instructions which were intentionally silent on the question most vital to the American government. So far were they from containing assurances of the revocation of the decrees, that they announced in so many words that they were *not* ineffective. That fact, however, was to be carefully dissembled by the new Minister.

Count Louis-Barbe Charles Sérurier had been engaged on several earlier diplomatic missions, notably in Holland at the time of the abdication of Louis. Napoleon could not have wished for a more obedient Minister although he might have found a more intelligent. He was appointed by decree as Minister to the United States, September 10, 1810, and set sail in December for Norfolk.

The instructions which he was given present material for an interesting study in itself. Champagny, in com-

1. It was natural that Sérurier should confound the free-lance Republican that was Randolph, with the Federalists, in his stand on the revocation of the Berlin and Milan Decrees.

municating a copy of them to the Emperor on November 13, 1810, summed them up :

« ... Ces instructions sont très générales » he wrote[1]... « Observer et rendre compte, mettre en tout réserve et discrétion, voilà ce qui a été surtout recommandé à M. Sérrurier...[2] ».

The license system against which the Americans had protested in vain was explained to Sérurier in his letter of instructions and details for its maintenance were given[3]. But what Champagny wrote of the Berlin and Milan Decrees would have enraged the Americans had they known of it.

« ... La promesse de rapporter les Décrets de Berlin et de Milan est donc conditionnelle et si l'une ou l'autre de ces deux conditions n'est pas remplie, ces décrets continueront d'être en vigueur...

« S. M. n'a pas demandé comme condition de rétablissement de ses rapports commerciaux avec les États-Unis que ceux-ci déclarassent la guerre à l'Angleterre. L'opinion du peuple américain est trop contraire à une déclaration de guerre. Tout occupé de son commerce, il craint avant tout d'autres Puissances, mais les hommes qui ont étudié l'Amérique[4] regardent une guerre entre les États-

1. Arch. Nat., AF IV 1681 A. Cadore to Napoleon, November 13, 1810.

2. The spelling of the name is apparently interchangeable, — Sérurier and Serrurier.

3. Arch. Aff.Et., Corr. Dip., E.-U. 64, f° 215. Instructions, Champagny to Sérurier. Oct. 4, 1810.

4. Probably refers chiefly to J.-B. Pétry, Secretary of Legation in America for the greater part of 27 years, and recently returned to France. He made frequent reports to Cadore regarding his opinions on American affairs, or wrote accounts of interviews which he held with the American envoys in Paris in the capacity of an unofficial agent of the Minister of Exterior Relations.

Unis et l'Angleterre comme le résultat plus ou moins éloigné du rapprochement des Américains avec la France. Et cette opinion devient encore plus plausible pour qui considère les motifs d'animosité des Etats-Unis contre le gouvernement anglais, et cette masse de griefs qu'ils ont accumulés depuis longtemps contre lui, et qui s'accumulent de jour en jour, et dont ils n'ont obtenu encore aucune réparation.

« Le but à se proposer, si l'Angleterre ne rapporte point ses ordres du Conseil est donc de décider les États-Unis à prendre des mesures efficaces pour lui faire respecter leurs droits... Si l'Angleterre y persiste, [à ses Ordres et principes de blocus] il en résultera inévitablement quelque collision entre elle et les États-Unis. Leurs relations commerciales avec la France devront même en multiplier les occasions, et la nécessité de repousser les attaques de l'Angleterre pourra insensiblement amener les Américains à une rupture, sans qu'ils aient été les agresseurs.

« Voilà, Mr., le résultat éloigné où vous devez tendre, mais d'une manière indirecte, sans démarches officielles, et en puisant surtout vos raisonnements dans les intérêts des États-Unis et dans leur position. Chez un peuple où le gouvernement ne tire sa force que de l'opinion publique, c'est sur cette opinion qu'il faut agir...

« Comme il n'y a, dans ce moment, aucun traité entre les États-Unis et l'Angleterre, puisque le terme de celui qu'ils avaient conclu en 1794 est expiré, il vous sera plus facile dans cette interruption de rapports positifs entre ces deux puissances, de contrarier leur rapprochement, que si elles tenaient encore l'une à l'autre par quelque traité... »

With such instructions, intended to baffle the Americans on every issue under the guise of sympathetically aiding them to the accomplishment of their best interests, it was not astonishing that the warmth of the reception accorded Sérurier by the Administration palpably waned after his first conversation with Smith on the day of his official presentation.

Of his premonition that he would be received coldly, Sérurier wrote naïvely to Champagny on February 6, 1811. Having described the enthusiasm with which he had been greeted along his way from Norfolk to Washington, his path lying through the region most notably favourable to Madison's policy, he had become a little uneasy and his conscience somewhat guilty when he realized that the hopes of those same enthusiasts would so soon fall[1].

« ... J'ai trouvé dans les villes et dans les campagnes, » he wrote, « tout le monde prévenu par les gazettes de mon arrivée, et je ne pense pas que les Ambassadeurs de Siam ayent (*sic*) causé plus d'étonnement à la Cour de France, que les bons Virginiens ne m'ont montré de curiosité sur toute ma route. La lecture que je faisais tous les soirs de la gazette, en arrivant à ma station, m'apprenait que j'étais réciproquement attendu avec une grande impatience ; que sur la nouvelle de mon arrivée, les Délibérations du Congrès sur les affaires de l'Europe, avaient été suspendues, et que l'on me supposait porteur des communications les plus importantes, et qui devaient décider des relations définitives de l'Amérique avec la France. Je voyais que l'exaltation était extrême de toutes parts et comme je n'apportais dans le fait rien de ce que l'on semblait attendre de moi, au moins relativement à l'embargo mis récemment sur les derniers navires américains, je ne fus pas fâché que le mauvais état des chemins retardât ma marche et donnât aux esprits le temps de se calmer... »

Sérurier was prepared for the ill-concealed displeasure of Smith when he learned after the first conversation that the Administration had nothing to hope in the

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 30. Sérurier to Champagny, Feb. 6, 1811.

way of confirming evidence of the repeal of the French decrees. But he probably was not prepared for the determined manner in which the President and his entourage persisted in the doctrine, in spite of every indication to the contrary, that the Decrees were revoked as provided by the letter of August 5. Sérurier reported to Champagny on February 17, a recent conversation with Smith, in which the latter had asked pointedly what the Emperor meant by his demand that the Americans « make their rights respected by the English. » Sérurier, bound by his instructions to keep that all-important point absolutely obscure, replied in the most equivocal terms[1] :

« ... Ici Mr. Smith m'a fait une nouvelle question, 'je suis,' m'a-t-il dit, 'positivement chargé de vous demander ce que l'on entend en France par faire respecter nos droits. Le rétablissement du *Non Intercourse* n'est-il pas suffisant à cet égard, ou veut-on en France entendre davantage par là?'

« Je me suis alors, Monseigneur, souvenu de mes instructions qui me prescrivent de ne point porter directement et officiellement à la guerre et de la laisser naître de la seule force des circonstances, et j'ai répondu au Secrétaire d'État qu'assurément S. M. rendait trop de justice à la nation américaine et à son gouvernement pour penser qu'elle eût besoin d'indiquer les moyens de faire respecter leurs droits, que l'usage autant que leur dignité leur inspirerait assez; mais qu'il me paraissait naturel d'entendre par là, le *non intercourse* avant tout, puisque les mesures qui en découlent naturellement tel que l'ordre aux bâtiments de ne point admettre de visite, ni de se laisser amener en Angleterre, ni de payer de tribut, enfin de protéger par des armements leurs côtes et leur navigation, etc... »

1. Arch: Aff. Et., Corr. Dip., E.-U. 65, f° 50-64, deciphered despatch. Sérurier to Champagny, Feb. 17, 1811.

On the same day that Sérurier wrote thus to Champagny, a Cabinet meeting was held, during which it was resolved to maintain that interpretation of the letter which the Administration had first taken. The basis of that renewed resolution was found in two letters just arrived from France.

On that day, the President communicated the two documents as proof of the revocation of the Decrees. They were copies of letters forwarded to Washington by Russell, who had received them from Champagny. One letter[1] was from the Minister of Justice to the President of the Council of Prizes, and the other[2] from the Minister of Finances to the Director General of Customs. Both were dated December 25, 1810. They failed signally to prove the repeal of the Decrees, and did not go beyond indicating that they were suspended, but their operation upon American commerce was to cease if the Emperor should be satisfied with the action taken by the United States on February 2. Until that time, American vessels taken under the Berlin and Milan Decrees since November 1, should be only temporarily sequestered.

The same boat which had brought those unconvincing documents, brought a copy of the *Moniteur* of December 15, 1810, forwarded by Russell and containing an official report by Champagny on the state of France's foreign affairs. It was in reality the expression of Napoleon's policy. Therein, it was clearly stated that the

1. Arch. Aff. Et., Corr. Dip., E.-U., supplement 5, f° 396.
2. Arch. Aff. Et., Corr. Dip., E.-U., supplement 5, f° 297.

Berlin and Milan decrees were immutable laws of the Empire. A knowledge of that report, Sérurier's silence, the recent seizures of the vessel in Bordeaux under the decrees, as well as information confirming the extension of the license system, should have been sufficient proof to men, not blinded by the desire to believe the contrary, that their interpretation was questionable.

Madison's failure to understand the situation in which he was placed was shown in a letter which he wrote to Jefferson on March 18, 1811, in which he declared that it was impossible for him to understand Napoleon's attitude toward the United States. What more weak admission could be imagined, than that of a President of the United States who tried to excuse Napoleon's failure to date to carry out his part of the « agreement » by revoking the Decrees, as Madison had understood he would do on November 1, on the grounds that the Emperor had not had faith enough in the American pledge to renew Non-Intercourse? Madison's complete failure to grasp the situation was evidenced by his interpretation of Napoleon's policy as one of *ignorance* and *folly*.

« ... It is, as you remark, » he wrote to Jefferson[1], « difficult to understand the meaning of Bonaparte toward us. There is little doubt that his want of money and his ignorance of commerce have had a material influence. He has also distrusted the stability and efficacy of our pledge to renew the non-intercourse against Great Britain, and has wished to execute his [measures] in a manner that would keep pace only with the execution of

1. Madison's Works, II, 490, Madison to Jefferson, March 18, 1811. Cited by H. Adams, *o. c.*. V, 349-350.

ours, and at the same time leave no interval for the operation of the British Orders without a counter-operation in either his or our measures. In all this his folly is obvious... »

By thus defending Napoleon's waiting to see what action America would take before his revocation was complete, Madison himself avowed that he recognized the Emperor's imposition and America's fulfillment of a « condition precedent. » A weaker position than that in which the President found himself could scarcely be imagined. If he could only with great difficulty persuade the faithful of his own party to sustain his policy, he could hardly expect Great Britain to accept his statement that the French Decrees had been revoked by Cadore's letter, nor yet demand that she recall her Orders on the strength of that revocation, failing which the United States would renew her hostile commercial measures against England. Yet in the last analysis, as will be seen, England's failure to accept the Administration's interpretation of the revocation of the French Decrees, and to recall her Orders accordingly, was the leading cause of the War of 1812.

Meanwhile, the days of the distraught Eleventh Congress drew to a close, and in the midst of the bitterest invective yet heard, a bill was passed, and signed on March 2, 1811, supporting and supplementing the Non-Intercourse Act which had gone into effect on February 2. Non-importation from England was provided for, but all ships arrived before February 2, were free from seizure. One last chance was given England to modify or revoke her Orders, for the President was authorized to suspend

the Non-Intercourse measure should she repent of her refusal. A clause providing for the revival of Non-Intercourse with France, if definite proof of the revocation of her Decrees had not been given within a certain time, was defeated.

A letter from Sérurier to Champagny, written at the moment of the passage of the bill, showed vividly the reaction in Congress caused by the new Minister's failure to bring satisfactory information of the revocation of the Decrees. Perhaps the greatest interest lay in the French Minister's remarks on the manner and extent to which French influence might affect American measures and his account of how, according to the letter of his instructions, he repulsed; seemingly indignantly, any charge of having come to America for the purpose of exciting that nation to war.

« Depuis qu'il est ici connu, » he wrote[1], « que je n'ai rien apporté relativement au dernier sequestre mis dans nos ports sur les navires américains, les débats des deux Chambres sur le *non-intercourse* et sur la conduite à tenir à l'égard de l'Angleterre et de la France, ont repris une nouvelle vivacité... On ne peut rien lire, ni entendre de plus licencieux, de plus désordonné que ce qui fut dit, ... dans les deux Chambres. Cette Philippique contre la loyauté françoise a été repoussée par une majorité uniforme, restée fidèle au Gouvernement...

« Je sçais (*sic*) que le Chargé d'Affaires d'Angleterre ne quitte point les séances et s'agite beaucoup pour obtenir quelques voix. Je n'ai pas pensé qu'il me convint d'en user de même, et j'ai cru, au contraire, que la dignité de l'Empereur en sera blessée sans que ses intérêts fussent

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 38. Sérurier to Champagny, March, 1, 1811. Despatch No. 4.

mieux servis. Ces moyens sont misérables sans doute; nos sûretés à nous sont dans l'intérêt de ces gens à nous ménager, et dans la position où Sa Majesté les a amenés par l'abolition conditionnelle de ses décrets, et où je puis les maintenir, sans me prodiguer ainsi dans les corridors du Capitole; ce qui, d'ailleurs, ne pourrait me réussir dans ces premiers moments surtout, où je ne connais encore personne. J'ai, dans le caractère de mes instructions, adopté une autre manière. Comme on répandoit (*sic*) avec affectation que je venois pour exciter les Américains à la guerre, j'ai pensé qu'il ne convenoit pas de laisser à Sa Majesté la proposition apparente d'un événement qui n'arrivera vraisemblablement pas, ni la responsabilité d'une guerre aussi équivoque, et j'ai répondu que l'Empereur prenoit part à tout ce qui touchait les Américains, mais que Sa Majesté les voyoit à une trop grande distance de lui pour vouloir juger leurs intérêts; qu'elle leur laissoit à décider de ce qui convenoit à leur honneur, qu'elle ne prétendoit exercer aucune influence sur leurs décisions; que ses vües étoient entièrement désintéressées à leur égard... J'ajoutai comme de moi, qu'à la vérité il étoit dans ma conviction intime que si, par suite de leurs efforts pour obtenir [le] respect de leurs droits, [s'il] leur survenoit de fâcheuses affaires, ils trouveroient alors certainement la France comme ils l'avoient toujours trouvée dans leurs tems (*sic*) les plus difficiles. J'ai pensé que ce langage n'engageoit Sa Majesté à rien, ni lui donnoit aucune responsabilité des évènemens, et lui conservoit cette attitude de supériorité et de protection qu'il me semble que la France ne doit pas quitter à l'égard de ce pays. Si je me trompe, Votre Excellence voudra bien me le dire; mon langage sera toujours celui que ses instructions me prescriront... »

It was evident that Sérurier considered the policy of the government of the United States to be quite closely dependent upon European affairs, and that, while the country dreaded the thought of war, he believed it

easy, especially if the Regency should be established in England, to lead them into hostilities. King George III had been declared insane. The future George IV was to be Regent, and the Americans hoped for the downfall of Perceval and the Tory Ministry which had made and maintained the Orders. However, as will be seen, their hopes were vain. Sérurier also thought that some real commercial concessions on the part of France would assure American action against England. He wrote to Cadore on March 4, 1811[1], regarding the question of war between England and the United States and the part which French influence might be able to play in causing it :

« ... Ainsi, après avoir repoussé avec hauteur le bruit que je venois mendier ici une alliance, je ne perds pas de vue que l'objet principal de ma mission est de contrarier un rapprochement avec l'Angleterre et d'aider au cours des choses qui portent ce gouvernement à une rupture avec nos ennemis. Je ne laisse pas échapper une occasion, dans mes conversations particulières avec le Ministre et les Membres du Congrès, de leur représenter quelle seroit pour leur intérest (*sic*), la différence d'un reprochement (*sic*) avec la France ou l'Angleterre...

Le résultat de mes premières observations est donc, Monseigneur, que le gouvernement d'Amérique est essentiellement faible, divisé; il répugne à la guerre, mais, au point où en sont venues les choses, et engagé comme il l'est, si la Nouvelle Régence Anglaise ne rapporte pas les ordres du Conseil, il seroit possible d'amener les Américains à un éclat avec l'Angleterre dans la supposition que Sa Majesté le jugeât utile aux vues de sa politique. Il suffit de quelques avantages commerciaux positifs et de quelques encouragements... Le génie de l'Empereur peut seul démêler, au milieu de ces obscurités, ce qui

1. Arch. Aff. Et., Corr. Dip., E. U. 65. f° 50. Sérurier to Champagny, March, 4, 1811. Despatch 5.

convient le mieux à ses grands desseins. Je serai dans tout état de choses prêt et en mesure, j'espère, d'exécuter les ordres que votre Excellence me transmettra... »

Sérurier was thus prepared to do what he could to foster the war spirit which had begun to make itself felt, and which the elections to the Twelfth Congress, to convene in November, 1811, had augured might be expected to grow more insistent. Meanwhile, the United States government had reached the lowest depths of its decadence when the Congress adjourned at midnight on March 3-4, 1811. Committed to a course based on the uncertain word of the Emperor, a party to an ill-defined contract, menaced not only by inimical powers abroad but by bitter and ignoble party faction at home, the Administration waited uneasily to see what effect its measure of March 2 would create in Europe. During the last days of the session, Madison had managed to secure the appointment of Joel Barlow, whom he had nominated as Minister to France, to succeed Armstrong. It was felt to be necessary to bring to Franco-American negotiations an authority which Jonathan Russell, excellent diplomat that he was, did not, as a mere Chargé d'Affaires, possess. Barlow's departure was delayed, however, for several months, during which time it appeared that American affairs were going so badly that the sending of a new Minister would have been useless.

Meanwhile, Russell in Paris was making what he could of a very difficult situation. He was a highly suitable representative of American interests in France. A native of Providence, Rhode Island, born in 1771, educated at Brown University for the Law, he had been more interested

in business than the Bar, and become a merchant. In November 1809, he had sailed in one of his own vessels to Europe. Arrived at Toenningen in Denmark, it had been sequestered under Napoleon's Decrees. Russell went to France, where he spent several months in vain representations to the government, endeavouring to secure the release of his ship. He was in Paris on that business when Armstrong chose him as his temporary successor.

Russell's keen business sense, a real diplomatic gift and a clear, forceful and even literary epistolary style, render his official correspondence with the American State Department and the French government, documents highly significant to an understanding of Franco-American relations. He approached the Minister of Exterior Relations in a calm but determined mood. His personal losses and the failure which he had experienced in securing redress had taught him suspicion of the good intent of Napoleon, and he lost no time after Armstrong's departure, in opening his diplomatic campaign of protest. Indeed, without plenipotentiary powers, he could do little except complain and point out French injustices during his year as Chargé d'Affaires.

On October 14, he addressed a note to Champagny[1] regarding the license system, protesting against the continued execution of the Decree of July 25, 1810. American vessels were being refused permission to leave French ports « for the sole want of licenses, » contrary to assurances given to Armstrong by Cadore on September 12.

1. MSS. State Dept., Dsps., France 12. Russell to Cadore, October 14, 1810.

Securing little or no satisfaction from his diplomatic representations, Russell wrote to Smith on November 17, 1810[1], that it was unfortunately impossible for him to give the President definite information as to the French government's « real disposition... with regard to the revocation of its offending system. » Although so far, no American ships had been seized under the Berlin and Milan Decrees, he was not at all certain that the measures were revoked, for he had no reason to believe that the Ministers charged with their execution had been definitely instructed of their recall. He had, rather, every reason to believe that they still existed, since « the fitness of things, » — the embarrassing commercial situation in England, — the character of the French government, and « the great end of its policy » which was to complete the ruin of England, had doubtless, Russell thought, « confirmed this [Imperial] government in the efficacy of its measures and strengthened its resolution to persevere in them, and even to increase their severity. » He continued that he had not made any « offlcial enquiry of the government if the decrees be in fact revoked, because such enquiry would have merely asked for new assurances under an ungracious circumstance of appearing to doubt the old one... Upon the whole whether the decrees be revoked in good faith or not I conceive it to be my duty and the policy of the United States to act as in the conviction that they are so — till something occurs to prove the contrary. »

1. MSS. State Dept., Dsps., France 12. Russell to Smith, November 17, 1810.

It is interesting and significant to note that Madison had already based his whole policy on the expedient which Russell suggested in the last sentence, « to act as in the conviction that they are revoked. » The President was of course influenced by the correspondence of the Chargé d'Affaires. But it is more difficult to understand how he could have continued to profess to believe in the revocation even after « something had occurred to prove the contrary. »

In that period of « watchful waiting, » Russell had several conversations with Sérurier, who had been appointed Minister to the United States, but who was not yet ready to depart on his Mission. The basis for the American expectation that Sérurier was bringing conciliatory instructions with him may be found in part in Russell's letter of November 17, to Smith [1] :

« ... I have indirectly and through various channels given this government to understand that the United States has a right to consider the revocation of the decrees to be absolute & that a different construction would lead promptly to the most serious controversy. In my interviews with the Minister lately appointed to the United States — and whom you will probably see in a short time after you receive this letter, I have very frankly endeavored to impress him with the necessity of obtaining instructions to make very distinct and positive explanations on this subject. I even went so far as to suggest to him that the manner of his reception might depend on it. I have reason to suppose that he made an application for the instructions I recommended. I know not whether he obtained them, but his professions are of the most conciliatory kind... »

1. MSS. State Dept., Dsps., France 12. Russell to Smith, November 17, 1810.

Sérurier, writing to Champagny an account of a conversation with Russell, reported the American's declaration that all that was necessary to producing a war between America and England was the definite revocation of the Berlin and Milan Decrees. In spite of Russell's very real and personal irritation with the execution of the French measures, as well as a strong patriotism which made him resent bitterly the humiliation to which his government was submitted by the play on the « revocation, » it is not improbable that Sérurier in his report exaggerated the heat of Russell's « *profession de foi,* » as the former described the latter's tirade against England and expressions of predilection for France. It is certain that no such francophile « *inclinations* » ever appeared in Russell's actions or correspondence. It is possible, on the other hand, that he had purposely overplayed his rôle to Sérurier, in order to try to convince the latter that to go to America with conciliatory instructions and intent would be the only way to restore American confidence in France, and to effect a real restoration of favourable relations between the two countries. It is, however, difficult to believe that in sincerity, he could practically have promised that his country would go to war with England if France should show herself truly conciliatory, for Russell was a discreet man and the Administration was not yet even admitting aloud, and scarcely in whispers, that they might go to war with England, even believing as they did in early November, 1810, that the French decrees were revoked absolutely.

« J'étais allé hier matin chez M. le Chargé d'Affaires d'Amérique, » wrote Sérurier to Champagny on Novem-

ber 7,[1] « pour causer avec lui sur mes arrangements de voyage. Après avoir tout réglé sur cet objet, M. Russell me demanda si j'avais connaissance d'un nouvel ordre du Conseil d'Angleterre plus extravagant encore que les précédents, et qui interdisait aux neutres l'entrée de tout port où le pavillon anglais ne serait pas admis. Le Chargé d'Affaires américain me parla avec feu et indignation de ce nouvel outrage anglais, et me dit qu'à ses yeux, la guerre était préférable à un tel état de choses. J'applaudis à cette pensée. Mais M. Russell se hâta d'ajouter qu'il dépendrait de l'Empereur de pousser les Américains à un mouvement généreux, que si les décrets de Milan et de Berlin devaient être rapportés définitivement et si je devais être porteur de cette détermination en Amérique, mon arrivée serait le triomphe du parti de la France et le signal d'une détermination terrible contre l'Angleterre; que ce que le Gouvernement américain souhaitait, c'était que la France lui offre par la différence de ses procédés, une occasion honorable de faire la guerre à l'Angleterre, dont le despotisme lui était devenu insupportable, et que cette occasion infaillible serait la révocation de nos décrets...

« Je répondis à M. Russell, » continued Sérurier, « que ces décrets n'étaient, comme il le savait fort bien, que la réponse aux ordres monstrueux du Conseil d'Angleterre, ... que c'était aux Etats-Unis, puisqu'on mettait le comble au mépris de leurs privilèges et de leur pavillon, à prendre l'initiative des mesures de vengeance que l'honneur national exigeait d'eux, et qu'alors ils pourraient compter sur l'appui le plus efficace et le plus soutenu de Sa Majesté...

« Cette conversation fut animée. L'air du Chargé d'Affaires étincelait d'un sentiment qu'il assurait être d'indignation, et alors il parlait anglais, il m'assura que ses inclinations de toute la vie avaient été pour l'alliance française, que sa conviction personnelle était

1. Arch. Aff. Et., Corr. Dip., E.-U. 63, f° 261. Sérurier to Champagny, November 7, 1810.

que M. Maddisson (*sic*), tous les gens de Cour[1], tous les vrais Américains, pensaient de même, et il revint pour trois fois à répéter qu'on ne demandait à l'Empereur qu'une occasion de faire une guerre honorable et vigoureuse à l'Angleterre, au lieu de cette odieuse et flétrissante paix dans laquelle tout périssait en Amérique, honneur et fortune. Je revins à lui répliquer que, si tels étaient en effet, les sentiments des Américains, c'était dans leurs outrages qu'ils devaient chercher le premier motif de leur déclaration de guerre, et que tout le reste viendrait naturellement après. Il me paraît que je n'avais pas convaincu M. Russell... »

That Sérurier's instructions were not such as Russell had recommended, has already been seen. It is quite clear now to the reader to whom the documents of both governments are submitted in open Archives that Napoleon did not intend to grant a definite revocation until the Americans should have complied with their ill-defined agreement to « make their rights respected by the English. » But meanwhile, the contemporary actors in the scene were not so well informed.

Although Russell had some hope that the revocation had taken place, he was not dazzled or misled by the newly appointed Minister's protestations of France's friendly disposition toward the United States. On December 4, 1810, he wrote to Smith one of the most significant and able despatches which the State Department received during the whole controversy regarding the revocation of the Berlin and Milan Decrees. The document, interesting in its entirety, contained nevertheless one passage which was unparalleled in the diplomatic corres-

1. Interesting slip of the pen.

pondence of the period for its clarity and vividness of style, for its characterization of the Emperor Napoleon, for its judgment on his influence and magnetism and on the absolutism of his rule, and finally for its conclusions as to the revocation of the French decrees. Russell wrote to Smith[1] :

« Alto' Mr. Sérurier professes to be well disposed towards the United States and probably is really so yet he is devoted to the service of his master & this devotion will form the rule for his conduct. Indeed the strange influence, which the Emperor exercises over those whom he employs, appears to merge all they may possess of suavity or benevolence in a zeal to execute his unbending will. He has no favorite or confident, he neither loves or trusts those whom he finds it necessary to use but considering himself alone and concentrating within himself all his affections and all his projects he braves & he despises the opinions of others. His Ministers and his marshals approach him — not to give their counsel but to receive his orders. The most intrepid among them shrink from his regard and a word from him confounds alike their wisdom and their courage. He has no policy but his power — and to make this power felt and feared he is obliged often to display it in acts of oppression & injustice. Whatever the Minister of Exterior, who is the only channel of communication for foreign nations submits to him must remain till he chooses to take it into consideration and to give it an answer. If it be forgotten among the multiplicity of other concerns it is dangerous to recall it to his attention — for if thus recalled it is at the hazard of his displeasure and his injustice. I doubt not that many representations have passed *sub silencis* (*sic*) merely because the minister has feared to remind him of their existence. Indeed the awe which

1. MSS. State Dept., Dsps., France 12. Russell to Smith, Dec. 4, 1810.

all about him manifestly feel is inconceivable to those who are not familiar with the excesses & extravagancies of a man possessed of absolute power and actuated by violent & unmanageable passions. Our relations with a country governed in this way must, I fear, at best be precarious & uncertain. For I humbly apprehend that our confidence in a foreign government ought not to be measured solely by its professions — or by the inaction or revocation of a few decrees but chiefly by the organization of the Government & the character of those who exercise its powers — and what security can we have for the permanency of any arrangement which depends on the single will of a spoilt child of fortune who regards neither the sanctity of principle nor the decency of forms.

« No one here except the Emperor knows if the Berlin and Milan decrees be absolutely revoked or not and no one dares inquire of him concerning them. The general opinion of those with whom I have conversed on the subject is that they are so revoked. There are indeed among those who entertain this opinion several counsellors of State — but this is of little importance as the construction which the emperor may choose to adopt will alone prevail & the most hardy of his Statesmen will not presume to consider it to be incorrect... »

The arraignment was severe, but Russell's experiences and his clear insight into characters and circumstances rendered his judgment particulary sound. As a contemporary commentary on Napoleonic diplomacy and methods of administrating foreign affairs, Russell's pen study is remarkably penetrating.

Events occurred soon afterward, however, which convinced the American Chargé d'Affaires that the Berlin and Milan Decrees were so far from being revoked that an American vessel arrived in Bordeaux during the first few

days of December was being held under their provisions. The *New Orleans Packet* had been seized by the Director of the Customs there, and her cargo ordered sold. On December 10, 1810, Russell wrote a note of protest to Champagny[1]. The Chargé d'Affaires' communication was couched in no servile terms. On the contrary, a tone not far removed from that of a vague threat concluded his protest :

« ... The case of the *New Orleans Packet*, » he wrote, « is the first which has occurred since the first of November to which the Berlin and Milan decrees could be applied, and if they be applied to this case, it will be difficult for France to show one solitary instance of their having been practically revoked... I am thoroughly convinced that the application of the Berlin and Milan decrees by the Director of the Customs at Bordeaux to the *New Orleans Packet* will not be approved by this Majesty but that prompt and efficient measures will be taken to correct a proceedure, which, if persisted in, might produce a state of things which it is the obvious interest of both nations to avoid. »

But time passed, and the *New Orleans Packet* was not released.

Meanwhile, Russell received fresh instructions on December 13, 1810, which placed him in a very embarrassing situation. Having had practical proof that there was no revocation of the French Decrees, he was nevertheless required by his government to take that revocation for granted. The instructions had informed him of the President's Proclamation of November 2, based on the theory

1. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 125. Russell to Champagny, December 10, 1810.

of their abandonment by France after November 1. Nevertheless, in accordance with the orders of his government, he communicated to Champagny on December 17, 1810[1], a copy of the Proclamation, with the statement that it had been issued on the ground that the revocation of the Berlin and Milan decrees was absolute and had not depended on any condition to be previously performed by the United States. He stated further that if that interpretation were correct the American republic considered herself as « pledged to renew Non-Intercourse with England and to continue it not only until her orders in council be rescinded but until her illegal blockade of May 1806, prior to the date of the Berlin decree be repealed... »

He did not end his letter there but resuming the somewhat menacing tone of a few day previous, he announced that should his government have been wrong in believing the decrees revoked, the President would be justified in taking steps to place France on a level with England as an offender. He demanded an explanation of official expressions of policy which indicated that the government persisted in the execution of its decrees. He clearly announced to the French Government that the United States had embarked on her system of relations with England as a result of the Emperor's communication of August 5. French influence in directing American foreign policy was thus frankly acknowledged. He further demanded of Champagny an explanation of two recent

1. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 127. Russell to Champagny, Dec. 17, 1810.

and official declarations of the French government that the Berlin and Milan Decress were still in force.

« ... I need not observe to Your Excellency, » wrote Russell[1], « that the proclamation of the President is the leading measure of the system adopted against Great Britain & announces the fact of the Berlin and Milan decrees being revoked — & that of course upon this revocation the whole system eventually depends. Should therefore those decrees, contrary to the just expectation of the President founded upon the unequivocal declarations of your Excellency, be permitted still to operate in violation of the rights of the U. S. he cannot hesitate to retrace his steps & to place upon equal terms two nations equally offending. The occasion therefore appears to require that a satisfactory explanation should be furnished by your Excellency of the following expressions in your reports to His Majesty on the 8th inst., viz :

« Sire, aussi longtemps que l'Angleterre persistera dans les arrêts du conseil, V. M. persistera dans ses décrets[2], » and to these still more precise terms employed on the 13th. inst. by the Count de Sémonville in his report to the Conservative Senate. « Les Décrets de Berlin et de Milan sont les réponses aux arrêts du Conseil. Le Cabinet Britannique les a, pour ainsi dire dictés à la France. L'Europe les reçoit pour son code et ce code sera le *palladium* de la liberté des mers[3]. » It is not for me to doubt that your Excellency and the Count de Sémonville in respectively employing this language, avowed the intentions of H. M. the Emperor and King but it belongs to Your Excellency to declare whether in persisting in the Berlin and Milan decrees & *imposing them on Europe for its code* they have received any modification by which they cease to outrage the rights if the U. S. & thereby qualify the American Government to persevere in the course they

1. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 127. Russell to Champagny, December, 17, 1810.
2. *Moniteur*, Dec. 15, 1810.
3. *Moniteur*, Dec. 17, 1810.

have adopted or whether, what is not to be presumed, the *palladium of the liberty of the seas* is to be formed from the ruins of the laws of nations & consecrated by the violation of public faith... »

To quiet Russell's importunate suspicions, Cadore put into his hands the two letters of December 25, the one written by the Minister of Finance and the other by the Minister of Justice. As has been seen, when communicated to Madison, they were accepted by him and sent to Congress as proof that the decrees had been revoked since November 1. Largely on the basis of that assertion the Bill of March 2, had been passed. No secret was made, however, of the Emperor's true policy, first announced by himself in a note to Cadore on December 13[1]. In a conversation with Russell on December 15, reported by the latter in a note to Smith on December 29[2], the French Minister disclosed the fact that the Emperor's intention was to wait until February 2, to see in what manner the United States had fulfilled her engagement to revive non-intercourse against Great Britain, before he should decide what definitive course to pursue regarding the revocation of the decrees. After the receipt of Russell's account of that interview, it is very difficult to see how the American government could have persisted in its faith in Napoleon's promises. Madison's excuses for the imposition of the condition precedent, admitted by Cadore in the conversation of December 15, seem less

1. *Correspondance de Napoléon*, XXI, p. 316. Napoleon to Cadore, Dec. 13, 1810.

2. MSS. State Dept., Dsps., France 12. Russell to Smith, Dec. 27, 1810.

and less defensible as the details of Russell's correspondence are surveyed. He wrote to Smith on December 29, an account of that interview[1] :

« ... Whenever I attempted to lead him to the revocation of the Berlin and Milan decrees he carefully avoided making any precise declaration in regard to it — but only repeated with additional emphasis that he was authorized to say to me that the Emperor would respect the *true interest* of the United States & favor American commerce as far as he could do it without favoring the commerce of England... When I pressed him to inform me if the Berlin and Milan decrees were revoked so far as they affected neutral rights of the U. S. he permitted himself to say that on the 5th of August it was expected that the U. S. would revive the non-intercourse against Great Britain on the 1st of Nov. and that the intermediate time had been altered for the three months required by the Act of Congress between the act and the putting that act in force. No ingenuity was necessary to show the absurdity of this doctrine, & when I portrayed it with all the delicacy its extravagance would admit, instead of defending it, he declared that the Emperor was determined to persevere in his system against England — that he had overturned the world in adopting this system and that he would overturn it again to give it effect.

« Upon the whole this interview was not calculated to increase my confidence in the revocation of the decrees... »

In the same letter, but reporting a subsequent conversation, Russell described the vague and unsatisfactory manner in which his inquiries were answered as to the meaning of Cadore's expressions on the continuance of

1. MSS. State Dept., Dsps., France 12. Russell to Smith, Dec, 29, 1810.

the decrees in his report on foreign relations and as to the Count de Sémonville's address to the Conservative Senate. The Chargé d'Affaires wrote to Smith[1] :

« ... [Champagny] laboured hard to convince me that I ought not to have taken any notice of the expressions used by him and the Count de Sémonville — that they were employed *in debate* & had no reference to the U.S. I did not think it worth while to push him into a controversy on this subject especially as in giving this turn to the objectionable terms used by himself and the Count de Sémonville he appeared sufficiently to have felt the import of the observations which I had made to have yielded the explanation which I had demanded. I remarked merely therefore that I had considered the reports to be in the nature of preambles to the important decrees which appeared to be founded upon them & of course to partake of their authoritative character...

« He repeated the general friendly assurances of the Emperor and that he was determined to favor the trade of the U.S. so far as it did not cover or promote the commerce of England. He said the Berlin and Milan Decrees in as much as they related to the United States were at an end — that the Emperor was pleased with what the U.S, had already done, but that he could not *throw himself into their arms* until they had accomplished their untertaking... »

It should have been difficult for the independent Republic that was the United States to receive as calmly as it did the no longer veiled contradiction of one of its chief articles of faith, which was that America, and not Napoleon, had imposed a condition precedent. Equally impossible was it to reconcile such conflicting statements

1. MSS. State Dept., Dsps., France 12. Russell to Smith, Dec. 29, 1810.

as Cadore's in the conversation with Russell regarding the revocation of the Decrees, faith in the sincerity of which, in spite of the tremendous proof to the contrary, was the basis of America's foreign policy.

Napoleon, who always recognized the advantages or dangers of a given moment and who was quick to play upon possibilities, seized the psychological instant to « prove » to Russell, assailed by gravest doubts, that after all, the decrees were revoked in good faith. The Emperor well knew that all that Madison asked was the boon of an indication that the measures were withdrawn, so that the Administration might have some reason for continuing in its assertions to England that such was the case. Nor was Russell less eager to clutch at the straw, although his expression of absolute confidence in the sign was doubtless designed to aid Pinkney in the latter's unavailing insistence to the English government that the French decrees were revoked.

« A gentleman[1] called on me last evening from the Duke of Cadore to inform me that the American schooner the *Grace Ann Greene* had been released — This vessel arrived at Marseilles since the first of November, and was last from Gibraltar where she had remained some time. As she came clearly within the Berlin and Milan Decrees, her release may be considered as conclusive evidence of their revocation[2]... »

Russell wrote to Smith on January 28, 1811, that he was somewhat at a loss to explain the French govern-

1. Probably J. B. Pétry. Cf. p. 180, note 4.

2. MSS. State Dept., Dsps., France 12. Russell to Pinkney, Dec. 30, 1810.

ment's more conciliatory attitude toward the United States[1], uncertain as to whether it was a mere change of policy or whether it had partly originated « in a repugnance to stand convicted in the face of the world of a most flagrant violation of faith admitting neither excuse nor extenuation. » Meanwhile, he received what he considered a signal concession in reply to a note of January 12[2] in which he had protested vigourously to Cadore regarding the license system. Rumours of its existence had reached him from Armstrong's reports and other sources although the details were still secret. Champagny's reply was taken by Russell as evidence that the permits were to be done away with. Madison communicated the letter to Congress as further proof that the French Decrees were revoked. It said in so many words : « before the revocation of the Berlin and Milan Decrees was ordered. » Therefore, maintained the Administration, the decrees *were revoked*, since the note said so. Cadore wrote to Russell :

« J'ai lu avec beaucoup d'attention votre note du 12 janvier relative aux permis à favoriser le commerce des Américains en France. Ce système avait été conçu avant que la révocation des décrets de Berlin et Milan eût été arrêtée. Maintenant les circonstances sont devenues différentes par la résolution prise par les Etats-Unis de faire respecter leur pavillon, et leur indépendance. Ce qui a été fait avant cette dernière époque ne peut plus servir de règle dans les circonstances actuelles[3]... »

1. MSS. State Dept., Dsps., France 12. Russell to Smith, Jan. 28, 1811.

2. *Am. St. Ps., For. Rels.*, III, 501. Russell to Cadore, Jan. 12, 1811.

3. MSS. State Dept., Dsps., France, 12. Champagny to Russell, Jan. 18, 1811.

Had the Americans been privileged to read the instructions prepared for Sérurier by Cadore on February 9, 1811, they would have felt less elated by their seeming victory. In that communication, the Minister of Exterior Relations stated that he could not say definitely that the permits would no longer be issued, although he enclosed his own letter of January 18 to Russell, in which he had indicated that the practise would be discontinued[1]. Indeed, events soon destroyed American illusions. On February 7, Russell, seeing that no vessels were allowed to enter or clear from French ports, without a license, petitioned Cadore for the release of five ships, fitted and ready to sail, but detained, merely because of having no permits[2]. Obtaining no relaxation, he again wrote to Cadore about the matter on April 2[3], stating that the agent of the brig *Mary and Eliza*, one of the five vessels concerning which he had written on February 7, had decided to abandon the ship, « to whose detention he sees no termination. » Permission was asked for her captain and crew to return to America on another vessel. Such was the frequent fate of American shipping during the period. Despairing of permission to depart, owners and agents often either abandoned their ships or left their cargoes behind and sailed in ballast.

Napoleon, meanwhile, having the Americans in the position in which he had long hoped to see them, — committed to a policy of hostility, although admitted by them to be only a policy of *commercial* hostility, and not

1. Cf. H. Adams, *o. c.*, V, 393.
2. MSS. State Dept., Dsps., France, 12, February 7, 1811.
3. MSS. State Dept., Dsps., France, 12, April 2, 1811.

one leading to war, — enunciated in a most open and unequivocal manner his unchanged attitude toward the decrees of Berlin and Milan as fundamental laws of his Empire. Russell wrote to Smith on April 4, 1811, a report of the occasion of the Emperor's pronouncement. The reference was highly significant in the light of the events forthcoming in 1812.

« ... On Sunday the 24th of March, » he wrote[1], « the principal merchants and bankers of this city waited on the Emperor at the Tuileries to felicitate him on the birth of the Prince. The Emperor seized the occasion to address them and in a speech of more than half an hour he developed his policy with regard to commerce...

« I have conversed with several respectable gentlemen who heard this harangue and upon comparing their statements I am satisfied that the following contains its great leading features and is substantially correct. It shows indeed his inflexible determination to persevere in his system, his hostile temper towards Russia and his determination to act towards us according to the construction which it may suit him to give to the information which he may receive of our conduct... »

The following account of the Emperor's address was included in Russell's communication to Smith on April 4. Napoleon was reported as saying :

« Les décrets de Berlin et de Milan sont les lois fondamentales de mon Empire pour la négociation neutre. Je regarde le pavillon comme une extension de territoire. La puissance qui le laisse violer ne peut être considérée comme neutre.

1. MSS. State Dept., Dsps., France, 12. Russell to Smith, April 4, 1811.

« Le sort du commerce américain sera bientôt decidé. Je le favoriserai si les États-Unis se conforment à ces Décrets. Dans le cas contraire, leurs bâtiments seront repoussés de mon Empire.

« Les relations commerciales avec l'Angleterre doivent cesser ; je vous le dis bien haut, Messieurs les négociants qui ont des affaires à terminer, des fonds à retirer, doivent le faire le plus tôt possible...

« Le continent sera fermé aux importations de l'Angleterre. Je resterai armé de pied en cap pour exécuter mes décrets et pour résister aux tentatives des Anglais. — Dans la Baltique, il existe encore quelque fraude ; mais elle sera entièrement anéantie. — Je connais les escompteurs du commerce anglais. Ceux qui ne pensent qu'à esquiver les lois et qui par suite d'opérations extravagantes finissent par faire banqueroute, mais s'ils réussissent à se soustraire à mes Douaniers, mon épée saura les atteindre tôt ou tard, dans 3, 4, 5 ou 6 mois, et alors ils n'auront pas droit de se plaindre.

« J'ai une oreille dans les Salons des Négocians. Je sais que l'on blâme hautement mes mesures, que l'on dit que je suis mal conseillé. Je ne saurai leur en vouloir de leur opinion, puisqu'ils ne sont pas placés pour voir ni calculer comme moi. Cependant, ceux qui sont arrivés dernièrement d'Angleterre et qui ont vu l'effet que commence à produire l'interruption du commerce avec le continent, ne peuvent se dispenser de dire : ' Qu'il est possible qu'il ait raison — il pourra peut-être venir à bout de ses desseins...' »

The speech is particularly interesting as being one of the few which the Emperor ever made so openly defining his policy in regard to the Berlin and Milan Decrees.

Meanwhile, Russell wrote to Smith on April 16[1], that

1. MSS. State Dept., Dsps., France, 12. Russell to Smith, April 16, 1811.

nothing had happened since his note of April 4 to cause a change in the status of American affairs. « Every American case, » he wrote, « whether in the Custom House or in the Tribunals is still suspended and apparently dependent on the nature of the next official intelligence which may be received from America. »

The Emperor had not long to wait for news of the action of Congress regarding the restoration of Non-Intercourse with Great Britain. On April 26, Russell communicated the Bill of March 2 to the new Minister of Exterior Relations, Hugues Maret, Duc de Bassano, to whom, on April 17, Champagny had yielded the portfolio. The exact reasons for the fall of Champagny were not known, but probably his lack of sympathy with Napoleon's commercial policies and especially with the impending punishment of Russia for her disaffection from the Continental system were the leading causes. Bassano's pliability was probably his greatest recommendation[1].

« ... The government of the United States, » wrote Russell to Bassano[2], « cannot entertain a doubt that the loyalty of its proceedings will be acknowledged by his Majesty, the Emperor and king, and that sincerely disposed as he is presumed to be to maintain a perfect harmony and good understanding between the two nations, he will promptly adopt on his part every measure which may be necessary to promote so desirable an object. »

Nothing could have been more ironical in the light of the action which Napoleon took upon receipt of Russell's

1. H. Adams, *o. c.*, V, 401.

2. Arch. Aff. Et., Corr. Dip., E.-U. 67. Russell to Bassano, April 26, 1811.

note, than the Chargé d'Affaires' appeal to the supposedly sincere disposition of the Emperor toward the United States. Madison had every right to expect that the possibility of any further excuse for delay on the part of Napoleon was obviated by America's fulfillment of all his conditions precedent, which the Administration had even so humbled itself as to admit had existed.

In a meeting of the Council of Commerce, held on April 29[1] at St-Cloud, Napoleon ordered a report to be made by the Ministers of the Interior and of Finances and by the Director General of the Customs on the exact state of Franco-American relations at the moment of the arrival of the intelligence regarding the Bill of March 2. There was no question in his mind of revoking the immutable « *lois fondamentales* » that were the Berlin and Milan Decrees. Instead, he brought out the fact that he was being almost criminally lenient in not demanding, as public law would prescribe, that the United States declare war on England. In place of making that justifiable demand, his idea would be to declare the Berlin and Milan Decrees revoked, and then seize American ships coming from England to France on the theory that the Non-Intercourse Act of March 2 forbade American vessels to trade with England. Therefore, any such ships were not only denationalized if caught trading with England, but became English since their country's laws did not recognize them. Napoleon had not observed, apparently, that the Non-Intercourse of March, 1809, as

1. Arch. Aff. Et., Corr. Dip., E.-U. 67, f° 44. *Extrait du procès-verbal de la séance du 46e Conseil du Conseil du Commerce*, April 29, 1811.

revived against Great Britain by the Proclamation and supplementary Act of March 2, was a revival only of such clauses as provided for *non-importation*, and did not forbid exportation to England. The Macon Bill had provided that only the *non-importation* clauses of the Non-Intercourse Act be restored against one power in case either of the belligerents fulfilled the requirements. The Emperor, nevertheless, continued his *exposé* of ideas to the Council by saying that should such reasoning as he had just outlined be impraticable, the best policy would be to leave the whole problem still obscure. He clearly showed what he meant that the United States should go to war as the only real means of making her rights respected by England.

The minutes of the Council of Commerce of April 29, recording the address of the Emperor, read in part :

« ... Les États-Unis n'ont point déclaré la guerre à l'Angleterre, mais ils ont reconnu les décrets de Berlin et de Milan, puisqu'ils ont autorisé leurs nationaux à commercer avec la France et leur ont défendu toute relation avec l'Angleterre.

« En vrai droit public l'empereur devrait exiger que les États-Unis déclarassent la guerre à l'Angleterre ; mais enfin c'est faire la guerre en quelque sorte que de consentir à l'application des décrets de Berlin aux Bâtiments qui auront communiqué avec l'Angleterre.

« Dans cette hypothèse, on dirait : les décrets de Berlin et de Milan sont rapportés, quant aux États-Unis ; mais comme tout bâtiment qui a relâché en Angleterre ou qui s'y dirige est un bâtiment sans aveu que les lois américaines punissent et confisquent, on peut le confisquer en France.

« Si ce raisonnement pouvait être établi, il ne resterait plus qu'à prendre des précautions pour ne pas recevoir sur les bâtiments américains d'autres denrées que celles provenant des Etats-Unis.

« Enfin s'il était impossible de tracer dans ce système une bonne théorie, le mieux serait de gagner du temps en laissant les principes de cette matière un peu obscurs, jusqu'à ce qu'on vît les États-Unis prendre un parti, car il ne paraît pas que ce gouvernement puisse rester longtemps dans cette situation actuelle, relativement à l'Angleterre... »

Such was the result so far of the American Administration's policy, based on its interpretation of the letter of August 5, — not a word of recognition from Napoleon for having fulfilled what it considered its entire obligation and only the acceptance of their action as an admission of recognizing his Berlin and Milan decrees. Clearly there was no mutual understanding as to the exact nature of the agreement made between the two governments. Step by step, from the 2d of November, to the 2d of February, to the 2d of March, the United States had carried out her part of the bargain as the Administration interpreted it, and indeed as the French government's diplomatic communications to American government officials seemed to interpret it. Since the receipt of Cadore's letter of August 5, the United States had based her foreign policy entirely on the faith of the withdrawal of the French decrees of Berlin and Milan, tenaciously maintaining that they were revoked even in the face of Sérurier's eloquent silence, and such public indications that they were still in force as the seizing of American ships under their provisions, and the public announcements of the Emperor and of the Minister of Exterior Relations that they were still the fundamental laws of the French Empire. The extent of Napoleon's

influence over American foreign policy from November 1810 to March 1811, has been indicated. Did the Emperor maintain that influence as the months passed and a rupture between the United States and England approached? A survey of the relations of the United States with France and with England through the remainder of the year 1811, and until the declaration of war in June, 1812, discloses the elements of a possible solution to the problem.

CHAPTER V

« Watchful Waiting »
Anglo-Franco-American Relations, February-August, 1811.

> « ... Le peuple américain me rappelle le fils d'Ulysse sur le rocher de l'île de Calypso, incertain, irrésolu : il ne sait à laquelle de ses passions céder, quand Minerve, en le précipitant dans la mer, fixe son sort, en ne lui laissant d'autre parti que de surmonter par son courage et par sa force l'élément terrible qu'elle lui donne à combattre... »
>
> SÉRURIER [1].

For the year following the Council of Commerce of April 29, 1811, Napoleon's alternative suggestion regarding the policy for France to pursue toward the United States in the light of the Congressional Act of March 2, 1811, became the rule of conduct. To « leave the principles of the matter [of the revocation of the Berlin and Milan Decrees] somewhat obscure until the United States shall be seen to take sides[2], » was to be the watchword of Bassano and of Sérurier in dealing with the American government. The diplomatic contest which had opened with Cadore's letter of August 5, 1810, in answer to Macon's Bill n° 2, had continued, with the spectacle

1. Arch. Aff. Et., Corr. Dip., E.-U. 67. Sérurier to Bassano, March 2, 1812.

2. Arch. Aff. Et., Corr. Dip., E.-U. 67, f° 44. Cf. p. 213 above.

growing ever more undignified and with the resulting war between England and the United States becoming ever more imminent. Months had been spent in fencing, the fine insinuating rapier of Napoleon's diplomacy against the American Administration's clumsy but determined broad-sword. The supreme effort of March 2, 1811, had failed however, to bring the expected concessions and the assurance that the Berlin and Milan Decrees were revoked. The United States spent the next twelve months in seeking from France on the one hand the disclosure of the exact status of those measures in regard to the United States, and in stoutly maintaining on the other hand to an unbelieving England and to a doubting group of her own American citizens that there was not the slightest question of the absolutism of their revocation.

The Emperor's idea of guarding the secret of the status of the Decrees as enunciated on April 29, was supported by the Ministerial reports of Montalivet[1] and Bassano[2] on May 6. They pointed out that his first suggestion of confiscating all American ships which should come to France after having touched on England was untenable on the grounds which he had put forward. They made clear to the Emperor a point apparently not understood by him before that the clauses of the Non-Intercourse Act of March 1, 1809, revived on March 2, 1811, were only those providing for *non-importation* from England and did not forbid American vessels to export to England.

1. Arch. Nat., AF IV 1241, May 6, 1811. Montalivet's report.
2. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 309. May 6, 1811. Bassano's report.

Thus the idea of a renewed Bayonne Decree based on the embargo clauses of the Non-Intercourse Act was impossible, since those embargo clauses had not been revived.

On May 2, following the alternative suggestion of leaving the matter somewhat obscure, the Emperor had made a decision in regard to certain American vessels and cargoes sequestered since November 2, 1810, which Bassano set out to prove in his report of May 6, completely to have fulfilled the engagements of France with the United States. Napoleon had ordered that American cargoes arrived and held in provisional deposit in France since November 2, 1810, should be admitted on the condition that the vessels export an equal value of French national products of which 2/3 should be silk. By artful reasoning, the Minister of Exterior Relations declared that that determination on the part of the Emperor had absolved him of any further indebtedness to the Americans. He admitted that the United States had acted in good faith in the whole matter, but that since their Bill of March 2, 1811, had revived against England only the Non-importation clauses of the Non-Intercourse Act, doubtless American ships were carrying cargoes to England. It was scarcely probable that the English would pay in specie or that the American ships would return in ballast. Rather, it was almost certain that they would take on cargo in England. But should those vessels so laden, enter French ports, seeking a market, Bassano declared that they could be confiscated under Municipal Laws which forbade the entry of English merchandise into France. He suggested that *certificats d'origine* should be substituted for the *permis* or *licences*, so objec-

tionable to the Americans. By fostering direct trade between France and the United States, he pointed out that the Emperor could best encourage a rupture between the United States and England, for should England attempt to interfere with that commerce, it would add fuel to already existing quarrels between the two nations.

« ... et si l'Angleterre vient à s'opposer à ces communications, » wrote Bassano, « les atteintes qu'Elle portera à la liberté de commerce et de navigation des États-Unis doivent engager entre ces deux gouvernements de nouvelles querelles qui, jointes aux ressentiments des anciennes injures, pourront enfin déterminer l'Amerique à défendre à main armée, contre l'Angleterre, ses droits et son pavillon... »

He proposed that « *pour le moment actuel* » no measures be taken against American ships laden with English merchandise, encountered on the high seas by French cruisers. Thus, one aspect of the working of the decrees was to be « suspended, » (there was no mention of the word, *revoked*,) while others were to be carried on by municipal regulations which would accomplish practically the same ends as the decrees in full force.

The reasoning set forth in Bassano's report was clever but not logical, and that weakness the American Administration was obliged reluctantly to admit. Whereas they, of course, did not see the policy on paper as outlined by Bassano, they saw it in practice. Madison, in the last analysis, would have been satisfied and would have considered his and the national honour exonerated, if the Berlin and Milan Decrees could be proved to be

non-existent on the high seas where they offended the rights of Neutrals as guaranteed by International Law. Against Municipal Laws which might secure largely the same effect by confiscating American vessels and cargoes from England, the President, and indeed no government, could pretend to remonstrate. But as will be seen, at the moment when the suspension of the international character of the decrees as outlined by Bassano, began to be practised, and when the first reading of the decision of May 2, seemed to assure Madison that his ends were attained, it was justly pointed out that things were not as they seemed. The decision of May 2 released only those American vessels and cargoes arrived since November 1, 1810, which had not been held under the Berlin and Milan Decrees.

The Emperor's decision of May 2 was made known to Russell in a note from Bassano on May 5[1]. The American Chargé d'Affaires was not deceived by the appearances, and immediately saw that the communication was proof that the Berlin and Milan Decrees were not withdrawn. On May 11, he wrote to the Minister of Exterior Relations, asking for the release of the American vessels which had been captured and brought before French prize courts under the Berlin and Milan Decrees since November 1, 1810[2]. The moment was a crisis. If his petition should be granted, then indeed the measures might be considered no longer existent. But instead of a direct answer, a month of silence on the part of Bassano

1. Arch. Aff. Et., Cor. Dip., E.-U. 67, f° 49. Bassano to Russell, May 5, 1811.

2. *Am. St. Ps., For. Rels.*, III, 506. Russell to Bassano.

replied more pointedly than words. At the end of that period, Russell wrote again, remonstrating against the excessive tariff laid on American imports and protesting against the Emperor's decision that American vessels must export 2/3 of their cargoes in French silks. Again silence met his petitions[1].

Unable to obtain any satisfaction for his continued reclamations, he was obliged to await as patiently as he might the arrival of the new Minister, Joel Barlow, and to fill the interval with frequent if vain reminders to Bassano that America was not forgetting her claims even if France appeared to do so. Whether or not it was also partly a result of American diplomatic inexperience, the fact that Russell wrote with point and address and that by repeating his well aimed thrusts he had the ability of touching some rather vulnerable points in the French armour, had been significantly admitted by the predecessor of Bassano in a letter to Sérurier on February 9[2] :

« ... Quelques notes de ce Chargé d'Affaires, » Cadore had written, « dont je joins ici la copie, vous feront connaître les dernières demandes des Américains... Il y a dans le ton de ces notes, en général, quelque chose de dur et de tranchant, qui ne tend pas à rendre les affaires plus faciles : c'est en général un défaut des correspondances américaines. Mais ce ton peut indisposer quand il ne blesse pas. »

Meanwhile, the American government was waiting vainly for Russell to send them some reassuring news

1. H. Adams, *o. c.*, V, 405.

2. Arch. Aff. Et., Corr. Dip., E.-U. 64. f° 301. Champagny to Sérurier, Feb. 9, 1811.

from France which should warrant the departure of the newly appointed Minister to France. But he could send them nothing save the most disquieting and negative reports. On July 13, he wrote quite frankly to Monroe that in his opinion the true policy of the French government was to endeavour to manœuvre the United States into a war with England. He saw clearly into the Napoleonic intent of leaving the real attitude of France in regard to the recall of the Berlin and Milan Decrees, entirely obscure until the American should have taken a decisive stand against England largely because that country maintained her blockading Order of May 1806, as well as her Orders of 1807. He likewise pointed out that the Emperor's decision, communicated to him on May 5, had indeed worked as he had foreseen, only to release such American ships as had not been captured under the Decrees. Then as if half afraid that the Administration, which persisted in maintaining that the revocation of the French measures had taken place even when he had submitted proof that they were in existence, perhaps contemplated some alliance with the French Emperor, he took it upon himself to warn against such an association. He wrote to Monroe on July 13[1] :

« ... The temper here towards us is professedly friendly but unfortunately it is not well proved to be so in practice — It is my conviction, as I before wrote you, that the great object of the actual policy is to entangle us in a war with England — they abstain therefore from doing any act which would furnish clear and unequivocal testimony

1. MSS. State Dept., Dsps., France 12. Russell to Monroe, July 13, 1811.

of the revocation of their decrees lest it should induce the extinction of the British orders and thereby appease our irritation against their enemy. Hence of all the captured vessels since the 1st of November the three which were liberated[1] are precisely those which had not violated the decrees. On the other hand they take care by not executing their decrees against us to divert our resentment from themselves — I have very frankly told the Duke of Bassano that we were not sufficiently dull to be deceived by this kind of management. He indeed pretends that they are influenced by no such motive — and whenever I speak to him on the subject he reiterates the professions of friendship & promises to endeavor to obtain the release of the remainder of our vessels captured since the 1st of November — I fear however that he will not succeed & that this act of justice and good faith will not be performed in season to come between our vessels carried into England & their final condemnation in the court of appeals — It is possible indeed that should war with England be the consequence of such condemnation that even then our standing here will not be much improved as we may then be considered as chained to the Imperial car & obliged to follow withersoever it leads.

In reviewing the policy of this government I have not been able to discover that the concessions or alliances of other powers have produced any return on its part but new exactions and new pretensions — You will pardon me therefore if I take the liberty to suggest that, if a war with England become unavoidable, it would be prudent for us to embark in it on our own bottom & to guard against any advantage being taken by France of our embarrassments with her enemy... »

Russell was obliged, by the singular circumstances in which he found himself, to play a double rôle. Ordered

1. The 3 ships were : *The Star*, *The Two Brothers* and *The Good Intent*.

by his government to maintain the fact of the revocation of the Berlin and Milan Decrees in his declarations to the French government and to American agents in other countries, he wrote to J. S. Smith, Chargé d'Affaires in London, a letter on July 14, which, when compared with his communication of the day before to Monroe, clearly illustrates his difficult position. Having declared to the American Administration that all indications led to the belief that the Berlin and Milan Decrees were not revoked, and that such vessels as had been released since the Emperor's decision of May 2, were « precisely those which had not violated the decreees, » he wrote to Smith on July 14, arguing their revocation. It should be noted that he did not point out the fact that the three ships released were those which had not been held under the decrees. Smith would of course use Russell's note as the basis of a communication to the English government, and it would be left to the English Secretary for Foreign Affairs to find the fallacy. His communication to Smith was designed to give the Chargé d'Affaires in London some grounds to maintain the revocation of the French Decrees. In fact, Russell's argumentation was worthy of Bassano himself. By clever misstatements and half truths he succeeded in giving a fairly convincing « proof » of the revocation, designed to throw the English Secretary off the scent when it should be communicated to him by Smith. He wrote to the Chargé d'Aflairs in London[1] :

« ... I have now the satisfaction to communicate to you

1. MSS. State Dept., Dsps., France 12. Russell to J. S. Smith, July 14, 1811.

the liberation of the Two-Brothers — the Good-Intent & the Star, three American vessels captured since the first of November & brought into this empire or into ports under its control.

« I should no doubt have been able to have announced the release by one general decision, of every American vessel captured since that period if the only inquiries were whether or not they had violated the Berlin & Milan decrees — unfortunately however the practices of late years render the question of property extremely difficult to be satisfactorily decided amidst false papers & false oaths, after the most minute and tedious investigations, it often remains doubtful whether this property belongs to a neutral or an enemy. The time employed in this investigation has surely no connexion with the Berlin & Milan decrees and cannot justly be considered as evidence of their continuance.

« It is possible that these decrees may be kept in force in their municipal character & be applied for the confiscation of English merchandise on the Continent — and to prevent their performing this function does not appear to be a concern of the United States — nor can the measure adopted in retaliation of it on the part of England be justly extended beyond its limit and made to reach an unoffending neutral power which the act of her enemy does not affect — It is sufficient for us that the Berlin and Milan decrees have ceased to be executed on the high seas and if the orders in council still continue to operate there they surely are not supported by any principle of the law of retaliation but must be considered as a simple & unqualified violation of our neutral & national rights.

« The proof now before you of the revocation of the Berlin and Milan decrees, consists in the precise and formal declarations of this government — in its discontinuance to execute them to our prejudice in a single instance — in its having exempted from their operation every vessel arriving spontaneously since the first of November to which they could be applied and every vessel forcibly brought in since that time on which there has been a decision.

« After such evidence to pretend to doubt of their revocation would seem to be the result of something more than mere incredulity... »

But the English Ministry was endowed with a sentiment stronger than « mere incredulity, » and Russell's reasoning was no more able to convince that absolutely unbelieving body than had been Madison's.

Meanwhile, as the summer passed and Russell continued to hope for deliverance from the impasse in which he found himself, Napoleon thought to gain time and to ingratiate himself with the American government by his favourite method. The revolutions which were increasing among the Spanish colonies in South America had already drawn French, English, and American eyes to the vast commercial possibilities of that continent. Rivalries seemed inevitable, especially between the United States and England. Napoleon had already noticed the fact of that nascent competition in his remarks to the Council of Commerce on April 29[1].

« ... Il ne paraît pas, » he had said, « que les [Etats-Unis] puissent rester longtemps dans cette situation actuelle, relativement à l'Angleterre, avec laquelle [ils ont] d'ailleurs des discussions politiques pour les affaires de l'Amérique Espagnole... »

Seeing, therefore, in the situation the opportunity of developing another source of friction between the two countries and at the same time of gaining an end to him-

1. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 44. *Extrait du procès-verbal du Conseil de Commerce,* April 29, 1811.

self, he wrote to Bassano on August 23, 1811. The Minister was to instruct Sérurier to enlist American interest in the independence of the Spanish colonies in South America. Napoleon announced that he would send arms and aid, provided that their independence when gained should be « *pure et simple, et qu'elles ne contractent aucun lien particulier avec les Anglais* [1]. » Evidently Napoleon preferred to see the comparatively weak United States associated with him in aiding the Spanish colonies and thus gaining influence in South American affairs rather than his inveterate enemy, England. No instructions were sent to Sérurier regarding the Floridas, a region always coveted by Madison. But on that subject the Emperor wrote his views to Bassano on August 28. The Minister of Exterior Relations had that morning made known to Napoleon certain features of instructions recently communicated by Russell in which the American government's claims to Florida were asserted in the light of the secret Act of January 15, 1811, by which the President was authorized to seize Florida either with the local consent of the inhabitants, or in case a foreign power should endeavour to occupy it [2]. Seizing the occasion to continue his diplomacy of dissimulation and insinuation, Napoleon wrote to Bassano [3] :

« ... Vous m'avez parlé ce matin d'instructions reçues par le Chargé d'Affaires d'Amérique sur l'affaire des Florides. Vous pourriez insinuer l'idée suivante, que moyen-

1. *Correspondance de Napoléon*, XXII, No. 18068, Aug. 23, 1811, Napoleon to Bassano.
2. Babcock, *o. c.*, 26-27.
3. *Correspondance de Napoléon*, XXII, No. 18090, Aug. 28, 1811.

nant quelques millions de pistoles l'Espagne, dans la situation de pénurie où elle est, céderait les Florides. Insinuez cela en ajoutant que, tout en trouvant pas mauvais que l'Amérique prenne les Florides, je ne puis intervenir en rien, puisque ce pays ne m'appartient pas. » ·

Having, as he thought, thrown out to the Americans sufficient suggestions to draw their attention from the most important point at issue regarding the Berlin and Milan Decrees, Napoleon turned his attention from the United States to the Baltic and the projected compaign into Russia.

Meanwhile, the posture of Anglo-American relations had become increasingly unsatisfactory, and the ground on which the United States had based her foreign policy with regard to England, grew ever less tenable as the spring and summer of 1811 came and went. The hoped for relaxation of English policy when the Regency should be established had proved vain. Although the Prince Regent was himself strongly inclined toward the Whig party, Perceval's Tory Ministry remained in power according to the mad king's wishes, even after the establishing of the Regency in February, 1811[1]. There was no hope, in spite of the increasing economic discontent in England, for a change in the commercial policy of the country so long as the moving spirit and principal inaugurator of the Orders in Council remained in power. If the pleas of an important group in the English nation could not secure a relaxation, it was not remarkable that Pinkney could obtain nothing in the way of withdrawal on the

1. H. Adams, *o. c.*, VI, 2.

basis of the weak arguments which he had to offer of the revocation of the French decrees.

Since Wellesley's first refusal in his note of August 25, 1810, to Pinkney, to recognize the sincerity of the withdrawal of Napoleon's measures, the British Government had maintained, in spite of the American Minister's repeated assertions that they were indeed revoked, that the French Emperor had neither officially, nor effectively recalled his decrees. Not only did Wellesley refuse to consider them revoked, but he declined to listen to the American government's demand that before commercial relations could be restored between the two countries, the blockading Order of May 16, 1806, as well as the Orders in Council of 1807, must be withdrawn [1].

Pinkney, in writing to Wellesley on January 14 [2], undertook to exonerate the United States from the charge of « French influence » which had been brought against it. He endeavoured to show that in demanding the revocation of the Blockade of 1806, and the withdrawal of the Orders in Council of 1807, America was not doing the bidding of Napoleon, but was expressing her own national will. Identical demands had sprung from different and independent sources. In asking for the revocation of the blockading Order of 1806, the United States was standing for a principle of International Law established by early usage, confirmed by the Treaty of Navigation and Commerce signed by England and France at Utrecht

1. *Am. St. Ps., For. Rels.*, III, 408, Dec. 29, 1810. Wellesley to Pinkney.

2. *Am. St. Ps., For. Rels.*, III, 409, Jan. 14, 1811. Pinkney to Wellesley.

in 1713, and by subsequent international agreements, and always supported by the American government. A blockade to be real must be effective. Obviously, whole coasts could not be declared blockaded. His argument held together up to that point.

But his reasoning could not extricate him so well in the second as in the first case from the charge of American compliance with French policy. Great Britain had declared that when the French Decrees were revoked, her Orders would be withdrawn. But the British government, not without some justice, refused to see on the one side that the evidence in hand proved the French measure to be recalled, and persisted in seeing on the other that America, in demanding a relaxation of English policy on the flimsy argument of Cadore's letter of August 5, was conniving with the Emperor. Clearly, it was a difficult charge to explain away, and Pinkney did not succeed to the satisfaction of England.

Despairing of securing any concessions from the British government, convinced of its far from conciliatory intentions by the reports of Jackson's Mission, and considering the failure to appoint a successor to that envoy as a deliberate slight to his country, Pinkney accompanied his note of January 14 to Wellesley with a request for an audience of leave. He received no reply to his communications until after the Regency had been established and after it was known that the Perceval government would continue. On February 11 [1], Wellesley at last

1. *Am. St. Ps., For. Rels.*, III, 412, Feb. 11, 1811. Wellesley to Pinkney.

answered his note on the subject of the Orders, declaring that the British government refused to acknowledge that the Blockade of 1806 infringed on the approved Law of Nations and at the same time, declining to treat together the questions arising from the Orders of 1807, and the general principles of blockade, as the United States demanded.

Four days later, Wellesley again wrote to the American Minister[1], but this time in a personal note, informing him that a successor to Jackson had been chosen in the person of Augustus J. Foster, and expressing the hope that the principal reason for Pinkney's departure might be thus obviated. On the same day however, he sent formal notice that the Regent would receive him on February 19, if he wished to claim his audience of leave.

Pinkney was thus placed in a dilemma. His instructions of November 15, 1810[2], had ordered him not to leave his post unless the English government failed to appoint a successor to Jackson. It was a difficult position. Foster had indeed been appointed, but not until Pinkney had announced that he was leaving London partly because of the failure to appoint a Minister to Washington. He had been frankly informed that his demands in regard to the Orders in Council would not be granted. As a last resort, he asked Wellesley quite openly on February 17[3], what instructions Foster would carry to America and stated that he supposed they would

1. *Am. St. Ps., For. Rels.*, III, 413, Feb. 15, 1811. Wellesley to Pinkney.

2. *Am. St. Ps., For. Rels.*, III, 375, Nov. 15, 1811. R. Smith to Pinkney.

3. *Am. St. Ps., For. Rels.*, III, 414. Pinkney to Wellesley.

be such as would lead to a revocation of the Orders and permit a suitable adjustment of the *Chesapeake* affair for which no reparation had ever been made. It is significant that he made no mention of the grievance of impressment in that note of February 17, which savoured of an ultimatum. Upon receipt of Wellesley's reply on February 23[1], admitting frankly that Foster would carry no such instructions as Pinkney had outlined, the American Minister definitively asked for his audience of leave. On February 28, accordingly, he stated before the Regent that a prolongation of his Ministry seemed useless, since it appeared to lead to no closer conciliation between the two countries[2]. He left England soon afterward, designating John Spear Smith, son of the turbulent and anti-administration Senator Smith, as Chargé d'Affaires.

So ended his able Mission. His discouragement was well founded in years of fruitless negotiation. He could not, of course, foresee that he was leaving England just before that crucial moment of Anglo-American relations when the presence of an American Minister Plenipotentiary might have been of great service in maintaining the peace.

Although Foster went to America with instructions which fell far short of Pinkney's expectations, it was nevertheless evident that some concessions were intended. He was himself acceptable to the Americans as a person of consequence. The son of the Duchess of Devonshire by a former marriage, recently Minister to Sweden, and

1. *Am. St. Ps., For. Rels.*, III, 415, Feb. 23, 1811. Wellesley to Pinkney.

2. H. Adams, *o. c.*, VI, 19-20.

a Secretary of Legation in the United States at a previous period, he seemed a more suitable and dignified envoy than the rough and bullying Jackson.

He was empowered to arrange the *Chesapeake* affair according to American demands, taking care only that no insulting remarks regarding England should be inserted in the settlement. It was deemed a considerable concession by the British, but, as will be seen, it arrived too late to be looked upon as such in the United States. As for the Orders in Council and the Blockade of May, 1806, it was stated that the American Administration was mistaken in asserting the revocation of the French decrees to be accomplished, and that, therefore, it was impossible to expect England to recall her Orders on that basis. So long as there was some hope, however, of a change of view on the part of the Americans, in the near future, their ships captured while acting in accordance with the belief that the French decrees were revoked, would not be condemned. It was desirable to avoid a rupture even in the face of the challenging Non-Importation Act of March 2, 1811. But a secret instruction provided that if the United States continued obstinately in declaring the French decrees revoked and produced no evidence of it, England might be expected to retaliate by raising import duties to such a level as practically to exclude American commerce. A clause was also added instructing Foster to protest against American seizure of the Floridas[1].

1. Cf. H. Adams, *o. c.*, VI, 21. Quotes Instruction No. 3, MSS. British Archives, and Instruction No. 8, MSS. British Archives.

It was quite generally considered in England that Foster sailed upon a not entirely fruitless Mission. If he failed to take news of the recall of the British Orders to Washington, he at least carried orders to redress an ancient wrong which had rankled in American minds since 1807. But while he was en route to the United States aboard the American frigate *Essex*, an event occurred which practically nullified the effect of his one definitely conciliatory instruction.

Since the renewal of commerce between France and the United States, several ships of the British Navy had been hovering about the American coast, lying in wait for vessels bound to blockaded continental ports. On May 6, 1811, the American flagship, *President*, commanded by Commodore Rodgers, was ordered to sail to protect America shipping. He carried instructions dated June 9, 1810[1], ordering him to protect the honour of the flag at all costs. The basis for the order was the hope of an opportunity of revenge for the *Chesapeake* affair. Having just passed the scene of that encounter, Rodgers was bound for New York, when on May 16, he sighted a ship which he mistook for one of the offending British frigates, the *Guerrière*. He drew near her to ask if there were a citizen of the United States on board, recently impressed from an American brig. The inquiry was surprisingly new and bold from American lips. But the British vessel refused to show her colours or to reply. A pursuit followed, and there was a night battle. The

1. MSS. Navy Dept. Archives. Secy. Hamilton to Rodgers, June 9, 1810. Cited by H. Adams, *o. c.* VI, 26.

responsibility of the firing of the first shot was not fixed, but each vessel maintained that the other had been the aggressor. A great deal of damage was done to the British ship, which had 32 of her men killed and wounded. The *President* suffered but little, only one boy being wounded.

Great excitment reigned in the United States upon receipt of the news of the naval engagement. The exaltation was only slightly dampened when it was learned that the *President* had so thoroughly defeated not the proud frigate *Guerrière*, as was first thought, but the sloop *Little Belt*. In the dim light, Rodgers had mistaken the sloop for a frigate because of the close resemblance of the sails of the two vessels. In any case, the Americans looked upon the affair as a far more satisfactory adjustment of the *Chesapeake* insult than weeks of diplomatic negotiation and money payment could have effected.

What was Foster's surprise and dismay upon his arrival in the United States to learn that instead of coming to soothe America's wounded feelings by offering a tardy reparation for the *Chesapeake* affair, he was himself obliged to ask redress for a naval encounter in which the American had carried off the first place[1].

Not immediately coming to that point however, he began his Mission, after his presentation to Madison on July 2, 1811, by protesting against the American seizure of the Floridas. That remonstrance was not calculated to ingratiate him with the Administration to whom the

1. Cf. H. Adams, *o. c.*, VI, 35 ff. for an account of the *President* and *Little Belt* encounter.

possession of the Floridas was a favourite dream, and especially to the new Secretary of State, James Monroe, who, as one of the purchasers of Louisiana, firmly maintained that they were included in the original bargain.

Since March 1811, Monroe had replaced the incompetent Robert Smith as Secretary of State. The disgraceful cabal in the Senate which had been instrumental in defeating the recharter of the United States Bank, and which had attempted to drive Gallatin from his portfolio by destroying his most efficient financial support, had resulted in convincing Madison that he should at last rid himself of his least able adviser, and retaining Gallatin, replace Smith by James Monroe. Accordingly, Smith was asked to resign, and he acceded to his dismissal with ill grace. The new Secretary was a comparatively able and distinguished diplomat whose earlier Missions to London and Paris had well prepared him for his new and exacting responsibility. He had been defeated by Madison for the Presidency in 1808,and after that unsuccessful campaign, had retired to his native Virginia where he was elected Governor. He was a Republican, as was Madison, but of a different dye. His diplomacy in England, especially in concluding the Treaty in 1806, which Jefferson had so completely repudiated as not even to send to Congress, had given rise to the charge by some of his party that his sympathies were English. It was well known that he had always opposed Jefferson's and Madison's policy of peaceful coercion, and that he considered that the Administration leaned too far toward France. He, nevertheless, accepted the portfolio of the State Department, considering Madi-

son's offer as an indication that the government wished to steer a more perfectly middle course, abandoning any slight veering toward Napoleon which he may have considered existed. It is certain that his faith once pledged, he supported the Administration with all his ability and loyalty, in spite of personal opinions that the Berlin and Milan Decrees were not revoked and that therefore the American government's policy was based on false premises.

Sérurier, never a good judge of character, regretted the dismissal of the weak and inefficient Smith, whom he had believed to be attached to the French cause, and lamented and eulogized him in notes to the Minister of Exterior relations as a man of « *caractère ouvert et franc*[1]. » He was soon to be undeceived, however, for the enraged and blundering ex-Secretary of State showed his true colors, when in June, 1811, he published an *Address to the People*, in which he declared that Madison was the tool of Napoleon[2], and in general exerted every effort to discredit the Administration[3], by asserting that it was directed by « French influence, » which he declared he had always personally detested. But in the meantime, and before the French Minister could learn through the *Address* that Smith had not been the friend that he had seemed, Sérurier evidently feared that the new Secretary of State would be less amenable than Smith, for he

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 62. March 26, 1811, Sérurier to Champagny.

2. H. Adams, *o., c.*, VI, 46.

3. Joel Barlow defended Madison's Administration against Smith's charges in the National Intelligencer, June, 1811.

placed some faith in the current rumour that Monroe « *penche davantage pour l'Angleterre*[1]. » His opinion of the Cabinet rearrangement he sent to his chief in a note of May 5, 1811[2]. Not yet conscious at that date of the perfidy of Smith, he looked with suspicion upon the at last united front of the Administration and seemed to feel that it might bode no good to France.

« ... L'éloignement de M. Smith a fait cesser la division qui régnait dans l'Exécutif, » he wrote. « Le Gouvernement désormais concentre entre M. le Président et le Secrétaire d'Etat et du Trésor (ceux de la Marine et de la Guerre étant à peu près nuls) aura plus d'unité, de secret et de force. On paraît n'avoir pas voulu que je pusse m'apercevoir de ce changement. En effet, M. Gallatin est plus poli que jamais. M. Monroë ne me parle de France qu'avec onction et M. le Président, lui-même redouble envers moi d'égards et d'obligeance. J'ignore encore si tout cela est sincère, ou si l'on ne veut qu'endormir ma vigilance au moment de l'arrivée d'un Ministre Britannique. Je rends dans tous les cas politesses pour politesses, mais je ne m'abandonnerai pas à ces apparences flatteuses, et ma surveillance, pour être discrète n'en sera pas moins active. »

Sérurier need have had no fear that the new Secretary's reported pro-English leanings would influence the Administration upon the arrival of Foster. The recent naval encounter had given to the United States a new courage

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 62. March 26, 1811, Sérurier to Champagny.

2. Arch. Aff. Et., Corr. Dip. E.-U. 65, f° 199. Deciphered n° 12, May 5, 1811, Sérurier to Minister of Exterior Relations. The note was received by Bassano, but Sérurier was not yet informed of Cadore's removal.

in dealing with Great Britain, and Monroe vigourously expressed the government's demands, whatever his personal opinions might have been. A note to Foster on July 8, 1811[1], exhibited no particular alarm at Great Britain's protest against American seizure of the Floridas. The *Chesapeake* affair had been so effectively avenged by the *President's* action that the United States showed no particular haste in settling the score by diplomatic negotiation. The abuse of impressment was passed over with little comment. But the Administration returned with renewed insistence to its leading demand which was that the Orders in Council of 1806 and 1807 should be withdrawn since the French decrees were revoked.

On that point, however, all-important to the Americans, Foster was bound by his instructions to make no concessions. In a note on July 3[2], he had written to Monroe protesting against the Non-Importation Act, and declaring that Napoleon's public expressions[3] alone were enough to prove the continued existence of his decrees. In that paper, however, he made one very a light concession, stating that Fox's Blockade of 1806, having been merged into the Orders in Council of 1807 by the Order of April 27, 1810, existed only as part of those measures, and should they be revoked, the Blockade would be abandoned, unless it should be made effective.

At that point, when Foster was on the point of producing his threat of retaliation, if the United States did not

1. *Am. St. Ps., For. Rels.*, III, 513. July 8, 1811, Monroe to Foster.
2. *Am. St. Ps., For. Rels.*, III, 435. July 3, 1811, Foster to Monroe.
3. Cf. Cadore's Report in *Moniteur* of Dec. 15, 1810, and de Semonville's Report in *Moniteur* of Dec. 17, 1810.

repeal her Non-Importation Act, news of Napoleon's decision of May 2, communicated to Russell on May 5, was received in Washington. Monroe was quite impressed by that information, which he joined the Administration in believing was unquestionable proof of Napoleon's determination to live up to his agreement, and he urged with greater personal conviction the necessity of England's conceding to the American policy based on the revocation of the French decrees. On July 23, he wrote to Foster a note which was a virtual ultimatum[1]. Either England should revoke her decrees or expect a war. Foster, sensing the situation, had written on July 18 to his government that the Orders in Council were the rocks on which Anglo-American relations would be destroyed. But, he wrote that no decisive action could be expected until the 12 th Congress should meet in November, 1811[2].

Meanwhile, widely divergent feelings raged through the country. From many sides the cry for war made itself heard with increasing insistence. In 1811, when no new outrage had been committed by England, the nation was lashing herself into a rage and crying out for revenge for insult to her honour, when the events of 1805, of 1807, and of 1809, any one of which might well have served as a *casus belli*, were long past and had been met at the time by the protest of peaceful coercion. But there was some force stronger than logic which was directing the people of the United States in the months preceding the declaration of war. The first hints of concession from Great

1. Cf. H. Adams, *o. c.*, VI, 44.

2. Adams, *o.c.*, VI, 44, cites note from Foster to Wellesley, July 18, 1811. MSS. British Archives.

Britain, and the successful *President* affair, gave them that self-confidence which enabled them to demand with ever greater impatience the revocation of the British Orders. That same self-confidence rendered them increasingly blind to the subtleties of Napoleon's policy, and by reiterating their belief in his good faith, they opened the breach more widely to the criticism that their Administration was acting under « French influence ». Until the new Congress met, however, there was little to do but wait.

Meanwhile, Sérurier found himself no less at ease than the other actors on the political scene in Washington as the weeks of 1811 passed. Ever since the Bill of March 2 had been sent to France, the United States waited anxiously for the arrival of the frigate *Essex* with news of the reception which Napoleon should have accorded that measure. Until the expected confirmation of the perfect reëstablishment of Franco-American commercial relations should come, Barlow's departure for France would be delayed, as the Administration wished to instruct the new Minister on the basis of Napoleon's reply to the complete fulfillment of American engagements, — the Non-Importation Act.[1]. On March 26, Sérurier picturesquely reported to the Minister of Exterior Relations, the type of conversation wich occupied himself and the American statesmen during the interval of waiting.

« ... Je commence, Monseigneur, » he wrote[2], « à voir

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 110, deciphered. March 18, 1811. Sérurier to Champagny.

2. Arch. Aff. Et., Corr. Dip., E.-U. f° 62, No 7. March 26, 1811. Sérurier to Champagny.

plus fréquemment M. Madisson (*sic*), et nos conversations roulent pour l'instant (je crois par système de sa part) sur la littérature française qu'il aime et qu'il connaît bien, quoiqu'il ne parle pas français. Les choses resteront ainsi jusqu'au moment où l'arrivée de l'*Essex* nous mettra à même de reprendre les discussions politiques. »

The days and weeks passed and the *Essex* did not arrive with Russell's account of the reception accorded the Bill of March 2. The delay which he had met on presenting that measure to the French government has already been pointed out, and accounted for his holding the *Essex*, hoping always to be able to send a favourable decision by it. The importance of the factor of slow and intermittent communication can not be exaggerated in the consideration of America's relations with France and England in 1811 and 1812. While all in Washington waited anxiously from late April, when the return of the *Essex* might have been expected had the Emperor's reply to the March 2 Bill been immediate, to its arrival on July 1, 1811, Sérurier's position was perhaps most difficult of all. In the long period of waiting even those most firmly convinced of Napoleon's good faith had their well justified moments of doubting. The Americans considered that they had every right to expect a prompt reply and complete assurance that France had entirely desisted from any hostile commercial measures toward the United States, when Napoleon should have been informed of their Non-Importation Bill. Sérurier, for three painfully long months, was ever more insistently assailed by merchants, Congressmen, Cabinet members and even the President himself, with pleas for some definite reassurance that the silence did

not mean, what it as a matter of fact, *did* mean, — that the revocation of the decrees was not certain. The unfortunate Minister, bound by his instructions to disclose nothing regarding the status of those measures, wrote urgently to the Minister of Exterior Relations, begging for further orders.

« ... Le moment n'est plus loin, » he had written on April 5,[1] « où j'aurai plus besoin que jamais des lumières et des secours de V. E. et où il sera du service de S. M. que je connaisse plus parfaitement ses vues à l'égard de ce pays. »

On April 8, having just returned from a visit to Baltimore, where he had been greatly embarrassed by the insistent questions of several merchants there regarding his personal opinion as to what the Emperor's real intentions were in respect to the Decrees, Sérurier called for the first time upon Monroe, the new Secretary of State. In an illuminating despatch to his chief, he described the impressions which that first conversation had made upon him. The American, he said, had opened the interview with a few general remarks upon the pleasant memories which he retained of his sojourn in France, and that he had then turned to a consideration of the immediate status of Franco-American relations, but « *d'une manière générale et en Ministre qui prétend avoir besoin encore de remuer les cartons pour se mettre au fait*[2]. » And in truth, Monroe had a need greater than

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 161. April 5, 1811, Sérurier to Minister of Exterior Relations.

2. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 66, deciphered, no. 9. April 10, 1811. Sérurier to Minister of Exterior Relations.

Sérurier perhaps guessed to « look through his papers » in order to prepare himself to sustain his government in a policy regarding the soundness of which he had little personal conviction.,

If the Administration officials spent the period of waiting for the *Essex* in discussing French litterature with the French Minister and in arranging their portfolios, the press was not so hesitant in expressing its opinion on the state of affairs. Sérurier's discomfort was greatly aggravated by the pointed attacks which appeared in the Federalist journals, and on more than one occasion he felt the sting occasioned by « *la licence effrenée des gazettes*[1]. » Deeply angered by the charge brought against him by the *Federal Republican*, a Federalist of paper Baltimore, that he was responsible for the passage of the Non-Importation Act against England, he reported to the Minister of Exterior Relations the protests which he had made to Monroe against the exercise of that « frenzied license » in regard to His Imperial Majesty's Minister to the United States. The despatch was an impassioned diatribe against the freedom of the press, and is especially significant as showing the reaction of an envoy of that strictest censor, Napoleon, to an environment in which the most liberal interpretation of the Constitution's first Amendment was practised[2]. It is no less interesting as

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 171, deciphered, No. 10. Sérurier to Minister of Exterior Relations, April 20, 1811. Although Sérurier did not know of the change in the Ministry, his letter was received by Bassano.

2. « ... Congress shall make no law... abridging the freedom of speech or of the press... » *Constitution of the United States*, Amendment I.

an illustration of the American government's view of the liberty of their press at the time. Sérurier, having applied to Monroe for redress for the expressions of the Federalist paper, was astonished to learn the Secretary's attitude. Monroe, pointing out to him that the same journal and others of its kind daily abused the Administration in the strongest terms, advised him, unless he wished to defeat his own ends, to accept the charges with what grace he could. Public protest or a suit for libel brought against the paper, he pointed out, might very possibly result in giving the Federalists grounds to argue that the French Minister was in truth endeavouring to dictate laws to the United States and worst of all, to suppress one of the liberties dearest to Americans.

Sérurier wrote in part to Bassano[1] :

« ... J'ai déjà eu occasion d'entretenir V. E. de la licence effrénée des gazettes. Averti par la nature du gouvernement de ce pays, et par l'expérience de mon prédécesseur, j'avais résolu de fermer les yeux sur cet abus de la liberté de la presse, lorsque il y a 8 jours, une feuille, la plus virulente il est vrai du parti fédéral, dans un article intitulé *Sérurier Act*, car c'est ainsi que ces Messieurs nomment le Bill additionnel au *Non-Intercourse* ou plutôt à la loi de non Importation, s'est permis un langage tellement injurieux, que j'ai cru ne pouvoir plus longtemps me taire sans m'exposer au blâme de V. E. Les dénominations de *Minister of rapine and murder* m'y étaient données et toutes espèces d'injures s'y trouvaient réunies...

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f°. 171, deciphered no. 10. April 20, 1811, Sérurier to Minister of Exterior Relations. Cf. Arch. Aff. Et., Corr. Dip. E.-U. 65, f° 199, deciphered n° 12. May 5, 1811, Sérurier to Bassano, for further remarks of Sérurier, disclaiming responsibility for the Bill of March 2.

« Je remis alors à M. Monroë la feuille qui était l'objet de ma démarche et lui demandai satisfaction et la punition du coupable. Monsieur Monroë me témoigna son chagrin de cette indignité, mais il me fit aussitôt remarquer que cette feuille était la même qui traite d'ailleurs journellement M. Madisson de traître, *grand vassal* de l'Empereur, et invitait les citoyens à lui retirer l'autorité, tandis que d'autres feuilles parlaient du Roi d'Angleterre comme d'un fou et du Prince Royal comme d'un Prince perdu de débauche, que tous les honnêtes gens en Amérique gémissaient de ces excès mais il n'en était aucun qui, pour y remédier, osât proposer la moindre restriction à la liberté de la presse, *regardée comme l'arche sainte de la république*; qu'au reste les extravagances n'avaient aucunement influé sur l'esprit de nation dont l'opinion se formait sur des faits et non sur des déclamations, et il me montra l'article de la Constitution relatif à la liberté de la presse... »

The whole incident was significant as an indication of the heat to which public opinion had risen and as showing the consciousness, both on the part of Sérurier, who deprecated it, and of Monroe who defended it as an inalienable factor of American liberty, of the power of public opinion as the directing force in American affairs. Sérurier often, as Turreau had done before him, judged the American government to be weak, largely because the national machinery was driven by public opinion. His failure to understand the scrupulous American attitude toward the Constitutional division of powers in administrating the government, occasioned an interesting criticism of Madison on the part of Sérurier, who saw in the President's delay in taking action, a feebleness of character rather than respect of the limitations of his office. It is significant to observe that on April 26, only

a week before Napoleon, in distant Paris, was to make his decision on the basis of the American Bill of March 2, Sérurier was writing to Bassano that he considered that exactly such a policy, if adopted, would be practically certain to lead the reassured Administration to take « far more energetic measures » against England. Already the French Minister had sensed the personal nature of Madison's policy in regard to France, and he insinuated to his home government that even a slight evidence of the Emperor's intention to fulfill his engagements as the President interpreted them would be sufficient to decide the United States to take a more decisive part against England. He wrote to Bassano[1] :

« ... Je le répète, Monseigneur, oui ce gouvernement est faible par sa nature, par la défiance avec laquelle les pouvoirs y ont eté restreints, par le besoin constant où il est de consulter l'opinion et de ne jamais avancer qu'avec elle, et sans doute M. Madisson n'a pas assez grand caractère pour suppléer à cé que les lois lui refusent d'autorité. Mais nous ne devons pas en attendre tout ce qui est initiative en fait de grandes mesures politiques. Jamais, par exemple, il ne pourrait être amené à un éclat avec l'Angleterre avant que l'Empereur n'ait bien voulu accepter des mesures qui l'assurent de son amitié et ouvrent définitivement ses ports à son commerce.

« C'est... ainsi que, si Sa Majesté jugeait devoir adopter des mesures de bienveillance à l'égard des Américains, si leurs vaisseaux placés depuis novembre dernier sous le séquestre devraient être vendus et nos marchés ouverts à leurs échanges, moyennant des précautions déterminées, je ne doute pas et j'oserais presque le garantir que des mesures beaucoup plus énergiques seraient adoptées par

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 182, deciphered, n° 11. April 26, 1811, Sérurier to Bassano.

l'Exécutif contre l'Angleterre. L'administraiion de M. Madisson est lente et sans hardiesse, mais loyale et sûre, et je suis confirmé personnellement dans l'opinion que j'ai déjà plusieurs fois exprimée à Votre Excellence qu'il *regarde le succès et la durée de sa Présidence comme attachée au rétablissement de l'harmonie avec la France...* »

May passed and still no news arrived from Paris. The affair between the *President* and the *Little Belt* appeared to Sérurier to be the signal of war between the United States and England if the *Essex* should arrive with the news of the restoration of American shipping and of the reëstablishment of favourable commercial relations with France. If, however, the psychological moment were allowed to pass with no news of a conciliatory temper on the part of the Emperor, France might expect to be the object of bitter invective, and public opinion would call for the judgment of the two offending nations, France and Great Britain, on equally hostile bases. Writing to Bassano on May 29, he described somewhat naïvely the manner in which, in the crisis of affairs, he had attempted to throw off any appearance of « pushing these people into war », but at the same time, by his insinuating applause over the *President* affair, it is clear that he wished to encourage the Americans to more active measures against Great Britain.

« ... Pour moi, Monseigneur, » he wrote[1], « au milieu de cette commotion générale, je garde une attitude très

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 219, n° 15. May 29, 1811, Sérurier to Bassano.

calme. J'applaudis hautement à la belle conduite du Commodore[1] et à la noble résolution du Gouvernement de ne point permettre la presse de ses citoyens, mais je le fais sans chaleur, parce que je ne crois point convenable que le Ministre de l'Empereur ait l'apparence de pousser ces gens-ci à la guerre, ils s'en prévaudraient pour lui donner toute la responsabilité des événements s'ils s'y décidaient, ou pour lui donner des dégoûts, dans le cas contraire. Quand on cherche à me faire parler sur cette matière, je répète mon vieux thème, que Sa Majesté ne presse point les Américains de faire la guerre, qu'elle se borne à leur demander de faire respecter leur pavillon ou par la voie des négociations ou par celle des armes et qu'au reste, ils trouveront toujours la France quand ils voudront venir vers elle. Plus j'observe, Monseigneur, et plus je m'attache à ce système... »

It is interesting to note in the same despatch that he admitted that he had no instructions to offer any aid to the Americans on the part of the Emperor, but that in the event of the *Essex's* arriving without favourable news (which was actually the case on July 1), he would, in order to gain time and quiet the fury of the Americans, propose that Barlow be sent in spite of the apparent uselessness of the Mission, and would on his own responsibility, promise the aid of the Emperor, taking the risk on himself so that the Emperor could disavow his act if it did not fit into his policy.

« ... Je n'hésiterais pas à me mettre en avant, à promettre la plus haute assistance de l'Empereur et l'ouverture de ses ports aux expéditions d'Amérique. La responsabilité ne m'effrayerait plus où je verrais le service de

1. Commodore Rodgers, who had commanded the frigate *President*.

l'Empereur intéressé, et si mes lumières devaient dans une si grande circonstance me tromper, Sa Majesté ne serait point engagée, puisque j'aurais agi sans ordres et de mon seul mouvement, et elle resterait maîtresse de ses déterminations. J'oserais seulement alors réclamer son indulgence pour des démarches où j'aurais été porté par mon ardeur pour son service... »

June came and went, and still no news from France. Nerves were becoming ever more taut, and Sérurier and the Administration were the principal sufferers. The Federalists continued their gibes and diatribes, with the long period of waiting giving them sufficient time to concoct all manner of charges against the objects of their criticism. Not satisfied with having dubbed the Non-Importation Act, « the Sérurier Act, » they proceeded to denounce the orders under which Rodgers had commanded the action of the *President* toward the *Little Bell* as the result of an agreement between Madison and Sérurier. They charged the Executive with sending the frigate out as a kind of expiation to Napoleon for the recent burning of a French vessel at Norfolk. The French Minister, writing to Bassano on June 10, however, showed that he had not concerted with Madison in the matter, but that he would have liked to see such suspicions « better founded. » That phrase is significant as an admission that he was failing to influence the Administration as much as he would have wished. Then giving a picturesque detail, he reported that the uncomfortable circumstances then obtaining had not prevented him from inviting Mrs. Madison, the President and Cabinet to a luncheon and that he had been pleased to note the admiration of his guests

for certain articles of French manufacture which he had imported. He wrote to Bassano[1] :

« L'engagement de la frégate *Le Président*, avec le schooner anglais le *Petit Belt*, continue d'occuper l'opinion publiqne et d'être jugé diversement par les différents partis qui divisent la République. La majorité cependant applaudit à la conduite du Commodore américain. Le parti fédéral, toujours dans la vue de décréditer M. Madisson, m'attribue cette hostilité, comme il m'attribua dans le tems le Bill additionnel, et prétend que la sortie de la frégate a été concertée entre le Ministre de France et M. le Président, pour satisfaire l'Empereur, *notre maître commun*, et en expiation de l'incendie du corsaire français à Norfolk. Ce genre d'attaque blesse M. Madisson dans son amour-propre autant que dans sa popularité, à une époque où les esprits sont très exaltés contre la France. Je ne fais rien, Monseigneur, qui justifie ou détruise ce soupçon, que je souhaiterais seulement de voir plus fondé; et il ne m'a pas empêché d'offrir dernièrement à Made. Madisson un déjeuner où j'avais réuni tout le Ministère américain, et qui a paru lui être agréable. J'ai remárqué avec plaisir qu'on y a fait beaucoup d'attention à quelques objets de nos fabriques que j'ai emportés avec moi, et que plusieurs personnages marquants se proposent d'en faire venir aussitôt après le rétablissement de nos relations commerciales... »

Patience was almost at the breaking point as the last days of June came, and still no news from France. On the very eve of the arrival of the fateful *Essex*, however, the wrath of the distraught Administration was turned upon Sérurier. Word had just been received that the French Consuls in Baltimore and Boston had been in-

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 108, June 10, 1811. Sérurier to Bassano.

structed to issue licenses or permits to American vessels to carry colonial goods to France. The worst possible impression was of course produced on public opinion, nervously sensitive to any hint of Napoleon's commercial intentions, by the announcement that the hated license system was to be extended. The news gave firmer ground than ever to the opponents of the Administration's policy in charging that Madison had permitted himself to be duped by Napoleon. The American government, to whom Russell had submitted Cadore's note of January 18[1], had accepted that communication as proof that the system was at an end so far as American shipping was concerned. The recent and directly contradictory report greatly discredited the Administration. Monroe, inviting Sérurier to a conference, confronted him with the letter of January 18 and with the recent information from Baltimore. The Secretary of State asked the French Minister, who as a matter of fact, had not been instructed regarding the letter of January 18 or even informed of it by his government, to command the Consuls to suspend the execution of their new orders. Sérurier replied that he could not take that authority upon himself, but that he would recommend that the greatest circumspection be used in their exercise. The principal sources of exasperation for the American government aside from the discredit which the whole affair heaped upon it, lay in the fact that protest as it might against the system of licenses, and point out as it would, its injustice and lack of dignity, American merchants persisted in seeking them

1. Cf. page 206.

as greater security for their shipments. Describing the interview held with Monroe on June 29, Sérurier wrote to Bassano[1] :

« M. le Secrétaire d'État m'ayant demandé hier une conférence, je me suis rendu à son *office*. Il m'y représenta d'abord le très fâcheux effet que produisait, sur l'*opinion*, le retard des déterminations Impériales sur le rétablissement du Commerce de l'Amérique avec la France ; puis, venant à son objet, il m'annonça que la publication faite par le Consul de Baltimore, relativement à de nouveaux permis pour France qui pourraient être obtenus pour ce port, justifiait le soupçon de ceux qui prétendaient que les décrets de Berlin et de Milan ne sont point abolis pour l'Amérique, produisait la plus mauvaise impression sur le public, et enlevait au gouvernement Français, Monseigneur, ce qui lui restait d'amis...

« ... La phisionomie (*sic*) de M. de Monroë était tout à fait décomposée, et je ne concevais pas comment un objet aussi peu considérable, en apparence, pouvait l'affecter aussi vivement. Il continua ainsi : Vous êtes témoin, Monsieur, de la candeur de nos motifs, de la loyauté de nos principes, de notre fidélité inébranlable à nos engagements. Malgré les clameurs des partis, et la difficulté extrême des circonstances, nous persévérons dans notre système ; mais votre Gouvernement nous abandonne aux attaques de ses ennemis et des nôtres, en n'accomplissant pas, de son côté, les conditions mises à la proclamation du Président. *Nous sommes journellement accusés d'une partialité coupable pour la France ;* ces avis, d'abord faibles, et auxquels nous nous flattions tous les jours de pouvoir répondre par l'annonce de dispositions Impériales conformes aux nôtres, deviennent plus hardies par notre silence ; l'*administration se trouve dans le plus extrême embarras ;* elle ne sait ni ce qu'elle doit attendre de vous, ni ce qu'elle doit dire à ses commettans. Ah !

1. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 265, deciphered, n° 18. June 30, 1811. Sérurier to Bassano.

Monsieur, s'écria M. Monroë, si votre souverain avait daigné imiter l'empressement que notre Président a mis dans la publication de sa proclamation, s'il eût rouvert, avec des précautious nécessaires à concerter entre nous, ses ports à nos vaisseaux, tout le commerce Américain était gagné à la France, mille vaisseaux seraient partis à tous risques pour vos ports, d'où ils auraient été chercher les produits de vos manufactures aimés et recherchés dans ce pays. Les Anglais auraient voulu certainement s'opposer à d'aussi utiles échanges entre les deux peuples. *L'honneur et l'intérêt se seraient chez nous réunis pour leur résister et ce que vous souhaitez plus sans doute, que vous ne l'avouez, ne pouvait manquer d'arriver en dernier résultat.*

« Ce langage du Secrétaire d'État, Monseigneur, montrait plus de *découragement* que de mauvaise volonté, et je jugeais, quoique sans rien accorder, qu'il convenait cependant de le fortifier par des paroles consolantes et des espérances. »

Two days after that interview, the *Essex* arrived. Breathless, expectant, hoping against hope, Monroe, Madison and Sérurier examined their respective packets of mail. Shocked, astounded, confused, each found that absolutely no evidence of a favourable action of the Emperor in regard to the United States was contained among their letters. Sérurier received only vague instructions, dated before the arrival in France of the news of the passage of the Bill of March 2. Having experienced the deepest embarrassments for three long months through the necessity of acting on absolutely the same type of orders, he found himself instructed in the moment of severest crisis to temporize.

« ... Continuez de vous conduire avec la réserve qui vous a été recommandée précédemment, » the Minister of

Exterior Relations had written[1], « et ne vous compromettez par aucune démarche et par aucune promesse officielle. Les circonstances sont telles qu'on ne peut prendre à l'avance aucun engagement... »

The moment was dramatic. The angry discouragement of the American Administration and that portion of her citizens who had placed their faith in France's fulfillment of her engagements was too deep to find its expression in loud and heated words. Rather, wounded to the very depths, they clothed themselves in an icy reserve which alone saved the dignity of a government which had proclaimed and maintained the good faith of another nation when that other nation made scarcely a pretense in its own behalf. Sérurier, on whom fell the burden of the disdain felt for his entire country, has recorded with inimitable colour and picturesque detail the situation in Washington after the arrival of the *Essex*. The drama of that same day on which Pinkney returned from London, on which Foster arrived to begin his Mission in Washington, and the *Essex*, awaited for three months, reached America with the forbodingly equivocal and silent despatches from France, was recorded by Sérurier in a note to Bassano under date of July 5[2].

« Enfin l'*Essex* est arrivé ayant à bord M. Pinkney et les dépêches de V. E. En même temps, arrivait la *Minerve* sur laquelle se trouvait M. Foster, Ministre Britannique,

1. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 301, February 9, 1811, Cadore to Sérurier.

2. Arch. Aff. Et., Corr. Dip., E.-U. 65, f° 283-293, deciphered n° 19, July 5, 1811, Sérurier to Bassano.

et les personnes de sa suite. *Ce double événement occupe en ce moment, et partage toute l'Amérique...*

« Je vis le lendemain M. Monroë. *Je le trouvai glacé.* Il me dit que contre toutes les espérances du gouvernement l'*Essex* n'avait rien apporté de décisif et me demanda si j'étais plus heureux. Je lui répondis que mes lettres n'allaient que jusqu'au 1er mars, époque où le *John Adams*, porteur des mesures prises par le Congrès, n'était point encore arrivée en France, qu'ainsi elles ne pouvaient rien m'apprendre de définitif, mais je lui annonçais qu'elles renfermaient de nouvelles assurances des excellentes dispositions de S. M. pour l'Amérique, et l'explication des retards dont on s'affligeait tant ici, qu'ils provenaient uniquement de la nécessité où S. M. se croyait d'attendre l'annonce des dispositions prises par le gouvernement fédéral pour faire respecter la neutralité avant d'accorder de plus grandes faveurs à son commerce. Je l'assurai que jusque là aucune mesure contraire à l'Amérique n'avait été prise, que les bâtiments porteurs de licences avaient constamment été admis, que le nombre en avait été augmenté, que d'autres bâtiments venus directement des États-Unis avaient également été reçus et que l'on ferait mieux dès que l'on apprendrait que le pavillon Américain se serait fait respecter. Je fis ensuite valoir à M. Monroë ce que V. E. me chargeait de lui dire sur les Florides et sur l'indépendance des colonies espagnoles[1]. Je fus écouté avec politesse mais froidement. *Je parlais ensuite du ton tranchant et déplacé de la correspondance de M. Russell.* Je lui dis qu'elle n'offensait pas, parce qu'il n'était pas donné à M. Russell d'offenser, mais qu'elle était trouvée tout à fait inconvenante. Je fis sentir, à cette occasion, la nécessité pour la République d'avoir son Ministre à Paris. M. Monroë me répondit que le Gouvernement avait déjà fait cette remarque, il me répéta que son intention avait été, depuis longtemps, de faire partir

1. The extreme emotion of Monroe and the concentration of his attention on the single problem of the revocation of the French Decrees is interestingly shown by his failure to respond to Sérurier's hints on the Floridas.

found the American decidedly « *questionneur sur les dispositions du gouvernement de S. M.* » Pétry added a highly significant interpretation of Barlow's attitude toward the possible war between the United States and England, indicating that he considered Barlow's persuasion to be that war, if it came, would not be the result of any French measures, but that the true American policy was to keep the peace, to secure a commercial arrangement with France, and by gaining time, to avoid a rupture with England. Pétry continued in his report to Bassano :

« ... La Loi des Nations et rien que la Loi des Nations est le thème de M. Barlow, et je crois que la force de ses instructions et de ses arguments est puisée dans cette source... Dans toutes mes conversations avec ce Ministre américain il n'a pas prononcé une seule fois le mot guerre. Il ne pense pas, je crois, qu'elle peut être la conséquence de telles ou telles mesures que la France adopterait envers les Etats-Unis et qu'il désire lui-même. Il ne voit que le commerce. D'après cela, je suis disposé à croire, Monseigneur, qu'il n'a aucune proposition à faire, ni aucune condition à proposer pour nous déterminer à faire telle ou telle chose en faveur des Etats-Unis, que les vues de son gouvernement sont de gagner du temps, d'éviter une rupture avec l'Angleterre, d'obtenir un traité de commerce qui établirait leurs droits de neutres d'après les principes anciens... Il a cependant des instructions très volumineuses. Elles sont remplies sans doute de bien longues et bien savantes dissertations sur les droits des neutres et sur la justice qui leur est due par ceux qui les ont violé...[1]. »

1. Pétry's report of November 19, concluded with his personal opinion on the state of American affairs. He believed that they were at a crisis, and that public opinion and the Councils of the nation were divided between French and English sympathizers. Although

It is true that Barlow was not instructed to secure any concessions from France on the grounds of which war would be declared against Great Britain. Pétry's analysis of the Administration's true aim was correct, in that the ideal would have been to secure a commercial agreement with France, indemnities for past spoliations, and by gaining time and proving the French Decrees to be revoked, to obtain the recall of the English Orders in Council and of the Blockade of 1806. In other words, Madison had not entirely abandoned the dream of securing the triumph of neutral rights by peaceful means. But Madison as well as Barlow and all others who, in the Fall of 1811, had a finger on America's pulse, knew that the success of a last attempt at a policy of peaceful coercion was only a desperate chance. Nothing daunted, however, the new Minister began his representations in earnest, when on November 10, the day after Bassano's return to Paris, he sent a note[1], based closely on his instructions.

Reviewing therein the course of Franco-American relations since Cadore's letter of August 5, 1810, he pointed out that the United States had scrupulously fulfilled her engagements as promised in the Macon Bill n° 2 of May 1, 1810. Then, enquiring into the French

a war between England and the United States would create a diversion on land and sea in favour of France, he believed it essential that France should not endeavour to dictate the war to America, but let events come out as they could without France's appearing to « *s'en mêler.* » He thought that some friendly measures on the part of France were necessary in any case.

1. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 162. November 10, 1811, Barlow to Bassano.

government's conduct since August 5, he declared, according to his instructions, that the Berlin and Milan Decrees were considered literally revoked. But what advantages were to be gained, he asked, by their revocation, if they were followed by Municipal laws and tariffs which acted equally effectively to exclude American commerce? « It was not foreseen by the United States, » he wrote, « that in entering upon the agreements which amount to a prohibition of the English commerce from the United States, France would so arrange it that commerce with the Continent would be practically prohibited. » He complained about the exportation requirement set forth in the Decision of May 2, admitting that as a Municipal regulation he had no real right to protest against it, but that it worked greatly to the disadvantage of American commerce. He then protested against the tremendous tariffs which had been decreed at Trianon the same day that Cadore's letter of August 5 was dated, and which, in practice, virtually cancelled any benefits arising from the revocation of the Berlin and Milan Decrees. Admitting that the prosperity of the United States depended on commerce, he avowed that that country looked to the Continent to open her ports, failing which, America's policy would surely be obliged to change.

« ... The people are already impatient under the present deprivations, » he wrote, « and the probability is so strong, that it may be assumed as a basis of calculation that the present session of Congress will not be closed without an effectual provision for this purpose, » [the facilitating of commerce.] « If the Emperor should see it consistent with his policy to open the ports of the continent to the American productions on a plan that

can be called reciprocal with that on which the American ports are open to those of France, as well in regard to the rate of duties, as in that of their facilities, I am authorized and ready to treat that business in a manner which, I trust, will satisfy the wishes as well as promote the interests of both parties... »

Stating it as a half-threat, and admitting that it was not based on official instructions, Barlow continued that if France did not make some real commercial concessions to the United States, it was practically certain that Congress would remove the measures against England and consider the arrangement with France as null and void. He brought up as an argument for favouring American trade, the fact that the quickly developing South American markets were already coveted by England, but that great benefits could be secured both to France and the United States if the former would open her ports to the latter's carrying trade.

As the means of restoring American confidence in French intentions, Barlow proposed, firstly : that American cargoes and shipping under sequester, and not liberated by the Imperial Decision of May 2, should be restored to its owners, as well as the proceeds of the sales of those vessels which had been previously disposed of. Secondly : reparation should be made, « in some manner the least onerous to the French Treasury, » for the property acknowledged to be American, but in no state to be restored. Thirdly : a new commercial treaty between the United States and France should be arranged, based on principles of reciprocity as regarded duties, articles of exchange, etc.

Touching significantly on the possibility of a war between England and the United States, Barlow showed that he considered that England's continuance in her Orders might produce a clash of arms. But whether that would come or not, her perseverance in her system had already brought about a commercial war between herself and America which he declared would be of greater service to France than a military rupture between the two nations. He continued in his note of November 10 :

« ... Whether their [England's] perseverance in their present system will push the United States into a military war with Great Britain, I will not pretend to say. But it has already pushed them into a commercial war, which is now carried on with vigor, and which, if continued by us under the advantages of a liberal intercourse with Continental Europe, will be more fatal to England, and more advantageous to France than any military war between those two nations could be... »

That curious paragraph in Barlow's note of November 10 to Bassano, is especially noteworthy as being the first pronouncement which he had made on the possible war between England and the United States. Pétry had found him silent on the subject in the several meetings which they had had [1].

Barlow, having exposed the whole problem which he had come to Paris to endeavour to solve, dispatched his note to Bassano, expressing the hope that an answer, as favourable and as immediate as possible might be given. The frigate *Constitution* had been waiting since Septem-

1. Cf. Pétry to Bassano, November 15, 1811. Cited above p. 280.

ber to carry the first news of Barlow's negotiations to the agitated and impatient people of the United States, and the Minister was anxious that their hope of an arrangement with France should not be deceived.

But Barlow's Mission, which was to be composed of a series of false and disappointed hopes, sustained its first serious check when on November 17[1], Napoleon received the American Minister for the first time in « solemn audience. » The ceremony held at St-Cloud, Barlow described[2] as having taken place « with sufficient pomp and ceremony to show the external marks of respect for the government represented, » but the circumstance of the actual presentation he characterized as attended by « some symptoms of the same ambiguity which has so long continued, » and which Barlow was labouring to remove. Having read an address on delivering his letter of credence to the Emperor, — an address wherein he had added his voice to the « general symphony of admiration constantly pouring in from other parts of the world[3], » and having admitted that he hoped to arrange a system between France and America based on the « principles of reciprocal benefits, » Barlow awaited the Emperor's words. The American Minister, not a little surprised and taken aback by the terse reply vouchsafed by Napoleon, in reporting it to Monroe, characterized the imperial answer

1. Cf. *Moniteur*, November 19, 1811. Notice of Barlow's audience.

2. MSS. State Dept., Dsps., France 13, November 21, 1811, Barlow to Monroe.

3. MSS. State Dept., Dsps., France 13. Under date of November 17, 1811, see a copy of Barlow's address to the Emperor and Napoleon's reply

as « ambiguous. » As a matter of fact, Napoleon's remarks were scarcely so subtle as that word implied.

Sent in translation by Barlow to the American government the Emperor's response read :

« I receive with satisfaction a minister from the U. S. especially a man so distinguished as you are, and whose sentiments are so well known to me.

« France has manifested her attachment to the United States in combatting for their independence; and I have shown my friendship towards them in ceding to them Louisiana.

« As to the commerce between the two powers; I desire to favor it. I am great enough to be just. But on your part you must defend your dignity against my enemy and those of the continent. Have a flag, and I will do for you all that you can desire. »

As if struck by a prudent afterthought, and conscious that the purport of Napoleon's words might easily have served in America as grounds for charges regarding the Administration's too easy acceptance of indignities at the hands of France, Barlow added a postscript in his own hand at the end of the copies of the addresses which he was sending to his government. Of Napoleon's remarks he wrote :

« In my opinion it would be best not to publish this paper. The ambiguity of the Emperor's reply would be apt to furnish occupation to animadversions in the American papers which would be disagraeable to see returning here. »

As a matter of fact, Napoleon's words were never made known to the American Congress, upon whom, especially in its highly inflamable temper in the winter of 1811-1812, as well as upon the press, Barlow was undoubt-

edly right in believing the impression would have been most unfavourable.

The American Minister's dissatisfaction with the course of events was heightened by the reply which Bassano returned to his communications asking for French co-öperation in improving Franco-American commercial relations. On November 27[1], the Minister of Exterior Relations wrote to Barlow declaring that England, with her superior fleet and her Orders in Council was the real cause of the decline of Franco-American commercial relations, and that she was the real criminal against the Law of Nations. France having accomplished her share of any agreement existing with the United States, now looked to that countries to take a decisive step.

« ... La France a répondu à tout ce que les États-Unis pouvaient attendre d'Elle.

« Les Etats-Unis sont composés d'un peuple trop éclairé pour que je me permette de chercher ce qu'il y a à faire dans ces circonstances... Si votre pavillon est respecté, vous obtiendrez tout de la France... »

Refusing to lower French tariffs on the grounds put forward by Barlow, Bassano continued the note, holding out a reduction of duties only as a reward if the United States should, as if playing a game of « hide and seek, » discover the path of action desired by France, and then follow it.

« ... La France a fait tout ce qu'elle était en pouvoir de

1. Arch. Aff. Et., Corr. Dip., E.-U., 64, f° 340. Nov. 27, 1811, Bassano to Barlow.

faire, pour l'ouverture de ses ports, pour le tarif des droits qui est le même que celui avec lequel l'Amérique a commencé son commerce avec nous. C'est donc aux États-Unis à chercher ce qu'il y a à faire pour assurer la sécurité de la navigation entre les deux pays, et nos règlements applicables aujourd'hui à un commerce naissant pourront alors se modifier et se développer avec ses progrès. »

Barlow's note of November 10 was apparently not presented to the Emperor until December 5, when Bassano outlined its various points in a report to Napoleon[1]. The Minister of Exterior Relations gave as his opinion that such a policy of concession as the Americans demanded would perhaps influence a portion of Congress, but would not assure the triumph of the party « not exclusively devoted to the interests of England, » by which he meant the Administration partisans. Barlow's argument in favour of peaceful coercion had evidently convinced Bassano that a military war with England was less certain than a continuance of commercial restrictions as the policy which America would follow. Apparently the French Minister did not agree with Barlow, however, that the continuance of that policy would be as advantageous to France as a war between England and America. Therefore, he did not even suggest to Napoleon the advisability of granting any of Barlow's petitions. He declared, not without a certain contempt in his tone, that he believed that no step stronger than a measure providing for convoying her commerce could be expected from a

1. Arch. Aff. Et., Corr. Dip., E.-U. 64, f° 366, Dec. 5, 1811, Bassano to Napoleon.

nation like the United States who forgot independence and dignity in the pursuit of gain. He wrote[1] :

« ... S'il convenait à V. M. d'adopter un tel système de concession, il donnerait probablement de la force à la portion du congrès qui n'est pas dans les intérêts de l'Angleterre exclusivement, mais on ne peut garantir qu'il assurerait son triomphe. Il la conduirait peut-être à obtenir que le congrès ne rouvrît point immédiatement les relations commerciales des États-Unis avec l'Angleterre, et tentât le moyen hasardeux des convois. Je ne crois pas qu'on puisse espérer davantage d'une nation qui est toujours prête à sacrifier aux intérêts de son commerce son indépendance et sa dignité dont le *Ministre ne balance pas à prédire ce résultat comme inévitable.* »

Barlow, of course not in a position to know under what unfavourable light his note of November 10 had been presented to the Emperor, waited with increasing impatience as the month of December passed and no definite action was taken by the French government. He had frequent interviews with Bassano, but to his constantly repeated plea for a speedy answer, the French Minister replied with fine phrases and empty conversation. « He always treats the subject with apparent candor and sollicitude, » wrote Barlow to Monroe[2], « seems anxious to gain information, declares that neither he nor the Emperor had before understood American affairs in the light in which they now appear, and always assures me that he is nearly ready with his answer. » Thus the American Minister was obliged to permit himself and his business to be put off for weeks.

1. Bassano to Napoleon, Dec. 5, 1811. Cf. p. 288.

2. MSS. State Dept., Dsps., France 13, Dec. 13, 1811, Barlow to Monroe.

He determined, however, on December 28, to take the matter into his own hands. Having received Bassano's reiterated verbal assurances that the Emperor was disposed to enter into such a commercial agreement as Barlow proposed, but no definite step ever having been taken in that direction by the French Minister of Exterior Relations, the American decided to force the issue. He accordingly called upon Bassano with a note[1] in his hand which he proposed that the French government should sign in order to prove its good faith and intention to conclude a treaty according to its promises. The note declared that a treaty being about to be arranged between the Minister Plenipotentiary of the United States and the Minister of Exterior Relations, and the time necessary to draw up and ratify such an agreement being necessarily long, the Emperor would anticipate certain concessions to be made in the treaty, in order that trade between the two countries might be established immediately upon the favourable basis which the formal agreement later would assure[2]. Barlow avowed in reporting the affair to

1. MSS. State Dept., Dsps., France 13, Dec. 31, 1811. Barlow to Monroe, Note A.

2. The concessions were to include :

a) The free entry of American and French colonial goods in French ports.

b) No cause save a well-grounded suspicion of forgery in their papers should warrant the capture of American shipping at sea or in any port.

c) No other papers should be required except passport and clearance given by American authorities, and a certificate of origin delivered by French Consuls.

d) The Emperor should liberate all remaining ships and cargoes in his ports belonging to American citizens as fast as inquiry should prove them to be really American.

Monroe that his intention had been to induce Bassano to sign the paper and thus secure a balm to the irritation of the public mind in the United States, a means of appeasing the impatient clamour with which Barlow rightly guessed the people must be assailing Congress in the absence of any news from France. But Bassano was not to be caught off his guard. He copied the heads of the proposition, reported Barlow to Monroe, but did not give an opinion on the matter until next day, when he invited the American Minister to another interview. He then gave the Emperor's decision, which was noncommittal in character. Barlow, relating the affair to the Secretary of State, reported Bassano as saying[1] :

« ... It is not proper for me to sign this declaration; but you may notify it to your government, word for word as if it were signed; for the principles are adopted, and from this day forward they will be in operation. I have given the order to the chief of the Customs for what concerns his department; the court of prizes is ordered to expedite its part of the business, and I shall instruct the Consuls to give the Certificates of Origin. But you will observe this regards only the produce of the United States : colonial produce cannot for the present be admitted, even in a French vessel, on a simple certificate of origin, without a special license. »

Under the appearance of making immediate concessions, Bassano merely reiterated what had already been promised regarding the facilitating of direct trade. Not one new concession was made. Licenses for colonial

1. MSS. State Dept., Dsps., France 13, Dec. 31, 1811. Barlow to Monroe.

produce were far from being abandoned, and as for ceasing to capture American shipping on the seas, or liberating that which had been seized and was still held since November 1, 1810, there was not a word[1].

Nothing daunted by his failure to secure a preliminary agreement with France, Barlow returned to the assault and on January 7, 1812, presented to Bassano the project of a commercial treaty to be arranged with the United States[2]. It was composed of 31 articles, 16 of which were copied from the Treaty of 1800. The project admitted that the United States might soon be forced into a war, and in spite of herself become a belligerent in her turn. Echoing the Emperor's own words on the occasion of his presentation, Barlow called upon Napoleon to agree to the proposed treaty which would be beneficial to both nations. « He is great enough to be just, » wrote Barlow, « he can command the consequences of being just. » It was improbable, nevertheless, that however great and just he was, Napoleon would agree to some of Barlow's propositions. One of the most striking innovations which the American Minister suggested and which he described in the project as « strangers to all treaties and... new in the law of nations, » was the abolition of

1. A note from Bassano to Sérurier, however, dated Dec. 30, 1811, announced that several American ships held since Nov. 1, 1810, had been liberated, and that among them were some which had been visited by the English and would have fallen under the Berlin and Milan Decrees had they been existent. He declared that the Emperor's action was a new proof of their revocation. Arch. Aff. Et., Corr. Dip., E.-U. 66. Deciphered, n° 17.

2. MSS. State Dept., Dsps. France 13. January 17, 1812. Barlow to Bassano. Project of a commercial treaty.

contraband of war, the search for which occasioned the objectionable but sanctioned visit of neutral vessels on the high seas. It was equally unlikely that the Emperor would view with favour the American Minister's proposal that 20 °/₀ be fixed as a maximum tariff on indigenous products of the two signatory powers.

An indication of what the policy of France was to be in regard to American shipping was found not in the weeks of endless conversations which Barlow enjoyed with Bassano after the presentation of the project but rather in the orders given on January 8 to a French squadron from Nantes to attack and burn all neutral vessels bound to or from an enemy port[1]. Thus while American commerce was being destroyed in accordance with those instructions, February came and went, and Barlow was no nearer securing his treaty. He wrote in February to Monroe[2] that Bassano was at work upon the treaty, « and probably in good earnest, » continued Barlow in his note, « but the discussions with Russia and the other affairs of the continent give him and the Emperor so much occupation that I cannot count upon their getting on very fast with ours. » And in truth, from that time onward, American affairs were to be more and more lost to view in Napoleon's greater occupations. They will be seen, however, to have been connected with the Russian campaign, and in so far, with the fall of the Empire.

Meanwhile, in London, Jonathan Russell was meeting

1. H. Adams, *o. c.*, VI, 251.

2. MSS. State Dept., Dsps., France 13, Feb. 8, 1812. Barlow to Monroe.

with no success in endeavouring to prove to the English government that the Berlin and Milan decrees were revoked. The situation was undoubtedly difficult for a man whose opinions, expressed to his own government in regard to the French Decrees, showed his real conviction to be that they had never been revoked Pressed, however, by the English government, he wrote in late February, 1812, to ask of Barlow some absolute proof that they no longer existed. The latter, summoning all the powers of persuasion which his own trying situation left to him, replied to Russell on March 2[1]. Assuming an attitude of *pique* that the English government should think of requiring « more proof of the effectual revocation by the French government of the Berlin and Milan Decrees, » he referred Russell to the documentary « proofs » which he must already have in hand. He added that several ships which would have fallen under the Decrees, had they existed, had entered and left French ports unmolested. As for licenses, their continued issuance had nothing to do with the Decrees, and served merely to grant exceptions to France's Navigation Act. « Indeed the regulation about licenses is not a maritime regulation, and it has nothing to do with neutral rights. » Those were strange words from one whose negotiations for several months had had as one of its chief aims, the abolition of that system. He even went a step further, declaring that he had heard of no case of the application of the Decrees since November 1, 1810. Russell himself

1. MSS. State Dept., Dsps., France 13, March 2, 1812. Barlow to Jonathan Russell.

knew that that statement was questionable and Barlow's instructions ordered that he secure the release of vessels taken since that date under the Decrees. Barlow's supreme effort at being convincing was almost ridiculous under the circumstances. « It is difficult to conceive, » he wrote to Russell, « probably impossible to procure, and certainly insulting to require, a mass of evidence more positive than this, or more conclusive to *every unprejudiced mind.* »

To understand Barlow's note to Russell, so apparently unsupported by the real circumstances, it is necessary to endeavour to understand the motives of the man and to try to see what ultimate results he hoped to gain from that reply to Russell. In surveying the Mission of Barlow as his official correspondence permits, it appears that he approached his task with greater personal sympathy for the government to which he was accredited than had animated Armstrong or Russell. His great desire was undoubtedly to effect a return to the friendliest Franco-American relations. It was France, whether revolutionary or imperial, that he hoped to see again in the position of cordial understanding with his country. It is a notable fact that no such bitter criticisms of Napoleon as his predecessors had written escaped from his pen. Often impatient of the long delays imposed, frequently discouraged by the apparent contradiction between promises and their execution, Barlow usually expressed pain rather than wrath when he saw France apparently failing to live up to her word. Never, however, did he intentionally close his eyes to a danger threatening his country, nor to a measure inimical to its interests,

yet his leading desire, which was to restore and strengthen Franco-American relations on the basis of commercial agreement[1], led him to remain patient under the most adverse circumstances. Well knowing that war with England or even with France and England, or with France alone might hang on his negotiations, he bent his every effort to obviating all those possibilities, and to making a last effort to render Madison's peaceful coercion policy victorious or, at least, by securing an agreement with France, to unite the nation's divided councils and opinion against a single enemy, if enemy there must be. In the light of his official correspondence it seems evident that the note which he wrote to Russell, was designed not so much as a defense of France (for indeed the very system which he had defended therein, he daily protested against to Bassano,) but as a part of his idea, which had been

1. Barlow wrote to Monroe a statement of his aim in pressing the conclusion of a commercial treaty.

« ... It really appeared to me that the advantages of such a treaty as I have sketched would be very great, and especially if it could be concluded soon; 1st, because it would remove all the present pretext and every colour of pretext from the British Government for continuing its present system, and consequently either prevent a calamitous war or produce a greater unanimity in our councils and country in carrying it on. 2d, it would crush the swarms of French privateers by reducing the motives of capture and the causes of condemnation to the single fact of false papers, while the instances of these would be greatly diminished by establishing a certain mode of detecting them. 3d, in the event of future complaints of violations of our rights, the treaty would hold up a text with which every case could easily be compared, which comparison could at all times be made by the officers in the port, by the tribunals in Paris, and lastly, if necessary, by your minister in his reclamations... »

MSS. State Dept. Dsps., France 13, April 22, 1812, Barlow to Monroe.

Madison's also, of compelling England to change her ways by dint of maintaining constantly that the French Decrees were revoked and that England was therefore pledged to withdraw her Orders.

While Russell in London laboured to secure English relaxations of policy on the strength of Barlow's not entirely convincing « proofs, » the American Minister at Paris found himself more and more put off in the general preparations for the Russian campaign. Formerly permitted at least, the privilege of frequent if ineffectual conversations with Bassano, Barlow was granted them now at very irregular intervals, and most of the appointments which he secured, were broken by the Minister of Exterior Relations[1]. He nevertheless maintained constantly in notes to his government that he was sure that Napoleon's intentions were to conclude the treaty. In that belief he was detaining the *Hornet*[2], trusting that he could send satisfactory news to the United States at least early in April. He admitted, however, that the long delays were discouraging him and leaving him « rather with the hope than with the full expectation, » that the negotiations would be concluded favourably.

Something stronger than discouragement soon threatened, however to shake Barlow's faith in France. Just after he had written to Russell, news reached Paris of the burning at sea of several American ships by French cruisers. The American Minister's protests to Bassano on

1. MSS. State Dept., Dsps., France 13, March 15, 1812, Barlow to Monroe.

2. In mid-April, Barlow was obliged to send the *Hornet* with no positive news for America.

March 12 were of no avail[1]. Instead of reassurances or explanations, the Minister of Exterior Relations sent to the Emperor a report on Neutrals which was communicated to the Conservative Senate on March 16, and which, when published in the *Moniteur*, should have been sufficient to rock the very foundations of the faith of any remaining believer in the revocation of the Berlin and Milan Decrees. Reviewing the French creed regarding neutral rights, the report declared that until those principles[2] were practised, France would maintain and enforce her Decrees in regard to all nations which permitted the denationalization of their flag. The ports of the Continent were not to be open to denationalized flags nor to British commerce. It was the moment to state that America, if such had been the case, was an exception to the rule, but the occasion was passed over in silence. There was no doubt that the Berlin and Milan Decrees were not revoked in regard to American or any other neutral shipping. Barlow, who had always pinned his faith to the proposed commercial treaty as the surer baim for ills than any number of assurances of the revocation of those Decrees, wrote to Monroe in the crisis of March 16[3]. He believed that the clearer proof of the revocation itself would be of no real value unless the benefits could be made secure by

1. H. Adams, *o. c.*, VI, 252-253.

2. Napoleon had always maintained in theory the principles of the Treaty of Navigation and Commerce, signed at Utrecht in 1713 by France and England :

a) The flag covers all merchandise save contraband of war.

b) A blockade to be real must be effective.

3. MSS. State Dept. Dsps., France 13, March 16, 1812, Barlow to Monroe.

a treaty which should forbid the levying of prohibitive tariffs, etc. He therefore saw in the official statement regarding the Berlin and Milan Decrees, only an « additional motive to get the treaty through, carrying with it an unequivocal stipulation that shall lay that question to rest. »

But that troublesome question was about to be resolved in a manner abrupt, unexpected, and wounding to the dignity of the American Administration, which had so long and steadfastly maintained the existence of that revocation. When the news of Bassano's report of March 16 had reached London, the British government believed that at last it had the United States in the inextricable position in which it had hoped for years to see it. Concluding that no self-respecting nation could longer maintain that the Berlin and Milan Decrees were revoked, the Prince Regent issued a Proclamation on April 21, 1812, stating that in case the French Decrees should be repealed at a subsequent date by a duly authenticated and publicly promulgated act, the Orders in Council would be withdrawn[1]. Barlow received that news on May 1, and lost no time in communicating its provisions to Bassano[2]. Stating that the Regent had found grounds for reasserting his conviction that the decrees were not revoked, in the failure of the report of March 16 to notice their non-application to the United States, Barlow asked that the French government « now make and publish an authentic act declaring the Berlin and Milan Decrees, as relative to

1. In translation, *Moniteur*, May 8, 1812.
2. *Am. St. Ps., For. Rels.*, III, 602, May 1, 1812, Barlow to Bassano.

the United States, to have ceased in November 1810... The case is so simple, and the demand so just, and the necessity so urgent, » continued Barlow, « that I cannot withold my confidence in the prompt and complete success of my proposition[1]. »

Napoleon was just on the eve of leaving Paris, and Bassano was preparing to depart, when Barlow's letter was delivered to the Minister of Exterior Relations. The Archives are silent regarding the immediate reaction which the communication produced on the principal personages of the French government, but several pieces of evidence permit a partial reconstruction of the circumstances attending the appearance of the Decree of April 28, 1811, upon the diplomatic scene[2].

Barlow's importunate request, arriving as it did, at the busiest moment before departure, probably astonished Bassano and took him aback. The American Minister described graphically in a note to Monroe[3], the reluctance and evasiveness with which the Minister of Exterior

1. Barlow asked in the same note that the declaration for which he asked regarding the French Decrees be accompanied by :

a) A convention of indemnity for past spoliations on American property.

b) A treaty of commerce founded on principles of reciprocity.

2. Cf. Schalck de la Faverie, *Napoléon et l'Amérique*, 249, à propos of the Decree of April 28, 1811 : « On se trouve devant un mystère diplomatique qu'il est impossible d'élucider, mais dont les différent éléments répondent, sans doute, aux circonstances officielles que l'on traversait. »

Possibly the fairly conclusive documents tending to elucidate this « diplomatic mystery » had not been in the hands of the writer.

3. MSS. State Dept., Dsps., France 13, May 12, 1812. Barlow to Monroe.

Relations at first met Barlow's demands, which he had reiterated verbally upon seeing how long Bassano was delaying in writing. What was the American Minister's surprise, therefore, when suddenly, during a conversation of which the date is not known, but which took place probably on May 8, 9, or 10, Bassano produced a document, dated at St-Cloud on April 28, 1811 [1]. Purporting to be based on a report of the Minister of Exterior Relations, it decreed the revocation of the Berlin and Milan Decrees in regard to American shipping, on the grounds of the accomplishment of a condition precedent, effected with the passing of the Non-Intercourse Act of March 2,

1. Original text of decree, signed by Napoleon, Arch. Nat., AF IV 4306, n° 7.

« Napoléon, Empereur des Français, Roi d'Italie, Protecteur de la Confédération du Rhin, Médiateur de la Confédération Suisse.

« Sur le rapport de notre Ministre des Relations Extérieures.

« Vu la loi du 2 Mars 1811, par laquelle le Congrès des États-Unis a ordonné l'exécution des dispositions de l'acte de *non-intercourse* qui interdisent l'entrée dans les ports américains, aux navires et marchandises de la Grande-Bretagne, ses colonies et dépendances,

« Considérant que la dite loi est un acte de résistance aux prétentions arbitraires, consacrées par les arrêts du Conseil Britannique et un refus formel d'adhérer à un système attentatoire à l'indépendance des Puissances neutres et de leur Pavillon,

« Nous avons décrété et décrétons ce qui suit :

« Art. 1er. — Les décrets de Berlin et de Milan sont définitivement et à dater du 1er novembre dernier considérés comme non avenus à l'égard des bâtiments américains.

« Art. 2. — Notre Ministre des Relations Extérieures est chargé de l'exécution du présent décret.

Signé : Napoléon.

Par l'Empereur :

Le Ministre secrétaire d'État

Signé : le Cte Daru. »

1811. Whatever the advantage might be to the United States to have documentary proof of the revocation of the decrees, the measure of April 28 was a direct blow at Madison, who had always declared that the decrees had been removed without the accomplishment of a condition precedent by America, and that they had become non-existent on November 1, 1810, and not on March 2, as the decree announced.

Barlow has left a vivid description of the communication of that surprising document, in a note to Monroe, dated May 12. He wrote[1] :

« After the date of my last, of which I have the honor to include you a copy, I found from a pretty sharp conversation with the Duke of Bassano, that there was a singular reluctance in answering my note of the 1 May. Some traces of that reluctance you will perceive in the answer which finally came, of which a copy is here enclosed. This, tho' dated the 10th, did not come to me till last evening. I consider the communication to be so important in the present crisis of our affairs with England that I dispatch the *Wasp* immediately to carry it to Mr. Russell, with orders to return with his answer as soon as possible.

« I am confident that the President will approve the motive of my solicitude in this affair, and the earnest manner in which I pressed the Minister with it as soon as my knowledge of the declaration of the Prince Regent enabled me to use the argument that belonged to the subject. When in the conversation above alluded to the Duke first produced to me the Decree of the 28th of April 1811, I made no comment on the strange manner in which it had been so long concealed from me, and proba-

1. MSS. State Dept., Dsps., France 13. May 12, 1812, Barlow to Monroe.

bly from you, I only asked him if that decree had been published. He said no, but declared it had been communicated to my predecessor here, and likewise sent to Mr. Sérurier with orders to communicate it to you. I assured him it was not among the archives of this Legation, that I never before had heard of it, and since he had consented to answer my note, I desired him to send me in that official manner a copy of that decree, and of any other documents[1] that might prove to the incredulous of my country (not to me) that the Decrees of Berlin and Milan were in good faith and unconditionally repealed with regard to the United States. He then promised me he would do it, and he has performed his promise... »

The calm and nonchalant manner with which the document was communicated to the world which had demanded in vain to see it since August 5, 1810, was melodramatic. There had been so little time in which to concert the plan, that it was carried out with several crudities of detail. Napoleon had left Paris for Russia on May 9, and Bassano followed him on May 11, the day after the official communication of the decree in a note to Barlow[2]. Thus the principal perpetrators of the scheme had left the scene in time to escape any rigid questioning which should arise regarding the suddenly produced Decree. If that document, hastily flung at Barlow, were designed to serve as a basis for England to withdraw her Orders, or for the United States to consider herself in possession of more certain proof of the good

1. Bassano enclosed in his note of May 10, 1812, to Barlow, a copy of the Decree of April 28, 1811, and the two letters previously communicated to Russell under date of December 25, 1810.

2. MSS. State Dept., Dsps., France 13, May, 10, 1812. Extract of a letter from Bassano to Barlow.

faith of France, it failed entirely of its purpose. The peculiar circumstances of its communication were, in fact, apparent from the first, and put England and America on guard against it[1]. An examination of documentary evidence seems to lead to the conclusion that the Decree was antedated, and actually composed between May 1, and May 8, 1812, to meet Barlow's request for the categorical proof the non-existence of the Berlin and Milan Decrees, which the Regent's Proclamation of April 21, 1812, had demanded.

Fairly conclusive evidence exists to show that the measure of April 28, 1811, was not decreed at the period indicated by its date. First, an examination of the Emperor's address to the Council of Commerce on April 29, 1811[2], contained no hint of a measure having been taken the preceding day. In fact, his suggestions in the Council that the principles of the matter regarding the revocation of the Berlin and Milan Decrees should be left « a little obscure » until the action of the United States should be known, indicates the utter improbability that he had signed so decisive a measure as the Decree of April 28, scarcely 24 hours before. Secondly, the report presented by Bassano to Napoleon on May 6[3] had been accompanied by 13 pieces covering the relations between France and the United States from May 1, 1810 to May 2, 1811, none of which was the Decree of

1. The news of the Decree of April 28, 1811, did not reach America until after the declaration of war. An official Congressional investigation followed its arrival.

2. Cf. p. 211, above.

3. Arch. Aff. Et., Corr. Dip., E. U., Supplement 5. List of pieces accompanying report of May 6, 1812, Bassano to Napoleon.

April 28, 1811 [1]. Thirdly, a note from Bassano on May 8, 1812, to Count Daru, the Secretary of State, asked for an expedition under date of April 28, 1811, of the Decree of which he was sending him a copy. His admission that it would be useful if the late arrival of the Decree could escape the notice of those employed at the offices of the Secretariat, would not have been made, had the whole affair been in order. Bassano wrote to Daru :

« Monsieur le Comte, j'ai l'honneur d'envoyer à Votre Excellence un décret — dont je vous prie de me transmettre le plus tôt possible une expédition à la date du 28 Avril dernier. Il serait utile au service, Monsieur le Comte, que l'arrivée tardive de ce décret échappât même à l'observation des bureaux [2]. »

1. Arch. Nat., AF IV 43o6, pl. No. 43, May 8, 1812, Bassano to Daru.

2. For an interesting commentary on the problem of the Decree of April 28, 1811, see some documents in the Archives Nationales.

In 1835, an investigation was being made by a committee of the Chamber of Deputies regarding the true origins of that measure. An ineffectual search was made among the papers of the Ministry of Foreign Affairs and of the Secretariat of State for the ministerial report on which the decree was declared in its text to have been based. See especially a note from Barry (Archivist of the Ancienne Secrétairerie d'Etat) to Mignet (Counsellor of State and Director of Archives), AF IV 43o6, n° 45, Feb. 19, 1835.

« ... Toutes mes recherches pour trouver le rapport qui aurait été fait pour provoquer le décret daté du 28 avril, 1811, sont infructueuses et je demeure convaincu que la mention d'un rapport en tête du décret n'est qu'une formule apportée pour donner au décret un caractère plus particulier... »

The document cited, which is preserved only in its form of a trial copy, carries the following significant last sentence, *barred out*, and probably not copied in the final draft :

« ... Tout me porte aussi à croire que le décret n'a été signé que le 12 Mai date où [on l'a] expédié au Mre. des R. E. »

N. B. (The fixing of May 12 as the probable date of the signing of

Probably the idea of fabricating a decree was given by Barlow's note of May 1 to Bassano, in which the former, not intending to suggest the producing of an *antedated* act, had said that it was « much to be desired that the French government would now *make* and *publish* an authentic act declaring the Berlin and Milan Decrees, as relative to the United States, to have ceased to exist in November 1810[1]. » Wherever the idea may have originated, it is certain that while endeavouring to come to some decision as to just what policy should be followed, Bassano manifested great reluctance in answering the American Minister's note demanding documentary proof of the revocation. There is no reason to believe that the reference to the existence of such a decree would have been so long delayed had it either ever been communicated, as Bassano declared it had, to Russell[2], and Sérurier[3], or had it been fabricated and ready to be shown any

the decree was doubtless a slip on the part of Barry, as Napoleon had left Paris on May 9.)

1. Cf. p. 299 above.

2. Russell, if anyone, would certainly have remembered if such an important decree had ever been communicated to him even verbally. He always maintained that it was never made known to him until he received Barlow's letter of May 12, 1812. Cf. William Crawford MMS. A letter to the Duke of Vicenze, Jan. 4, 1814.

3. The pretense that the measure of April 28, 1811, had been communicated to Sérurier when it was first decreed, was kept up by a letter of May 10, 1812, from Bassano to Sérurier, wherein the former expressed surprise at the latter's long silence regarding the receipt of the decree, and concluded that it must be that he had never received it. Cf. Arch. Aff. Et., Corr. Dip., E.-U., 67. May 10, 1812, Bassano to Sérurier.

Was it not a little strange that Bassano had not noticed the silence of the Minister Plenipotentiary on that important subject,

earlier than the 8th of May. On that day, reference to its existence was made in a superlatively nonchalant manner in the foot note to a translation of the Regent's Proclamation, published in the *Moniteur*[1]. As Barlow never mentioned the article or the foot note in his correspondence, it is probable that it passed unnoticed by him. It is at least certain that his first knowledge of the Decree of April 28 was received in the conversation with Bassano, reported to Monroe on May 12.

Barlow, who was not blind to the peculiar circumstances attending the sudden appearance of the measure of April 28, did not, however, examine them closely, but accepted the Decree as important mainly in that it might help him in his endeavour to « prevent war by a method so honorable as that of forcing our adversary to retreat from his aggressions[2]. » He communicated the news to Russell on May 11[3], stating that whether or not the Decree had ever been made known to the former Chargé d'Affaires as Bassano protested it had, the United States now had a right to expect the Prince Regent to withdraw the Orders in Council on the strength of it. He then indulged in a very significant remark which indicated the sincerity of his desire to keep peace with England even at the expense of displeasing France. He wrote to Russell on May 11, expressing his hope that the Decree of

somewhat before May, 1812, if the decree had been in reality communicated a year before?

1. Cf. *Moniteur*, May 8, 1812.

2. MSS. State Dept., Dsps., France 13, May 12, 1812, Barlow to Monroe.

3. MSS. State Dept., Dsps., France 13, May 11, 1812, Barlow to Russel.

April 28, might serve as a means of removing the cause of war with England and he gave his opinion that France, which had long desired to see the United States fighting England, would not have disclosed the documents communicated on May 10, unless she had been convinced that war was inevitable between those two countries. His note to Russell read in part :

« ... If by this attempt the cause of war should be removed, there is an obvious reason for keeping the secret if possible as long as that the *Wasp* may not bring it to this country in any other manner but in your dispatch. This Government as you must have long perceived, wishes not to see that effect produced, and I should not probably have obtained the letter and documents from the Minister if the Prince's declaration had not convinced this Government that the war was now become inevitable[1]... »

But meanwhile, circumstances quite apart from Napoleon's doubtful Decree were at work in the English government, and influencing it toward a change in commercial policy. Russell had communicated the information received from Barlow, to Lord Castlereagh, but a month had gone by, during which there was no reply[2].

Debates had already, before the arrival of the news of the April Decree, become heated in Parliament over the advisability of recalling the Orders in Council. Although Perceval and his followers maintained the system[3], an

1. MSS. State Dept., Dsps., France 13, May 11, 1812, Barlow to Russell.

2. Melvin, *o. c.*, 321.

3. Cf. *Diary* of J. Q. Adams, pp. 104-105. Perceval's uncompromising attitude toward the Orders shortly before his death.

increasing number of opponents, who drew their arguments not from any technicalities of Napoleonic diplomacy, but from the declining economic situation of England, attacked those measures. At a moment, when it looked as if the Ministery must fall from its own perverseness, a fanatic's hand shot Perceval as he entered the House of Commons on May 11, 1812, and with his death ended the regime which he had instituted. The gain of Brougham and the Opposition which was already appreciable, grew steadily thereafter until, on June 23, 1812, Parliament repealed the Orders in Council. At last the principal cause of war between the United States and Great Britain was withdrawn. But as will be seen, it was withdrawn too late.

The news, communicated to Barlow, led him on July 13 to write to Monroe[1] that he considered this bloodless victory of the United States to be far more beneficial and satisfactory than any war could have been. He expressed a fear, however, that the French Emperor might not receive the news so enthusiastically. He also believed that the negotiations for a commercial treaty which he was carrying on with the Duke Dalberg in the absence of Bassano, might receive « a little shock » from the expected Anglo-American reconciliation[2].

1. MSS. State Dept., Dsps., France 13, July 13, 1812, Barlow to Monroe.

2. The summer of 1812 passed, and no success attended Barlow's negotiations with Dalberg. At last, to gain time and quiet the American Minister's dissatisfaction, Bassano wrote from Wilna on October 11, to invite Barlow to come to Poland to treat directly with the Minister of Exterior Relations (cf. *Am. St. Ps., For. Rels.*, VII, 604). On October 26, Barlow left Paris, accompanied by his nephew,

But various factors, distance, time, the human equation, — had already decided the question in another way, for at the very moment that England took the significant step of repealing her Orders in Council, war had already been declared against Great Britain five days before by the United States. The posture of American affairs in relation to those of Europe in 1812 was ironical in the extreme. Napoleon had set out in May upon a campaign against Russia, one of whose principal crimes had been a refusal to conform to the Continental system and among other things, to exclude American shipping from Baltic ports. Russia, allied with England, fighting in part in defense of America's neutral rights, beheld the strange spectacle of her ally being attacked by the United States. While it was far from the case, external appearances pointed to a Franco-American understanding directed against England. But a long series of unredressed complaints against France, the never ending treaty negotiations, an antedated Decree which was rather an insult than a concession, and which in any case was received in America after war was declared, were not measures calculated to make for Franco-American *rapprochement*. It is necessary to look otherwhere for the immediate

and together they made the long journey in a carriage. On November 18, they reached Wilna. On December 4, came the news that the Emperor was in retreat. There was no longer any hope for Barlow's treaty. He departed on December 5, accompanied by J. B. Pétry and Thomas Barlow. On the 6th, Napoleon passed them on the road to Paris. Barlow became ill en route, and died on December 24, of an acute pneumonia at the village of Zarnowiec near Cracow. He was buried in the snowy wastes of Poland. So ended his fruitless Mission. Cf. Todd, *o. c.*, p. 270, ff.

impulse to the declaration of war against England in June 1812, than to any direct « French influence » or even close sympathy with France[1].

In the United States, that false calm which had reigned during the late Summer of 1811, gave way before the first signs of storm several weeks before the opening of the special session of the Twelfth Congress on November 4. Sérurier had begun again to be beset by the questions of merchants and statesmen who demanded his opinion on the course which his government had probably taken upon Barlow's arrival. If there was a general feeling that England was the greater offender against American rights, there was definitely a persuasion that it would be not only unjust but impossible to go to war with that nation when Franco-American relations were in such unsatisfactory confusion, and when a considerable group of Americans remained unconvinced of the sincerity of Napoleon's revocation of his decrees.

« Tous les jours, » wrote Sérurier to Bassano on September 29[2], « on vient me dire : Quand nous serons bien sûrs de la France, nous commencerons à nous battre avec les Anglais, car la Paix, telle que nous l'avons, est le pire de tous les états... Mais il faut se hâter. Pour que nous hasardions cette grande entreprise, il faut que nous soyons en parfaite amitié avec la France, il faut que nous soyons complètement satisfaits sur l'article des Décrets et que les droits mis en France soient sensible-

1. Cf. *Diary* of J. Q. Adams for interesting details an Russo-American relations during the early 19th century, and their part in Franco-Russian affairs.

2. Arch. Aff. Et., Corr. Dip., E.-U. 66, f° 113, deciphered, n° 29. Sept. 29, 1811, Sérurier to Bassano.

ment réduits. A quoi bon, en effet, nous battre pour mettre notre commerce avec l'Europe s'il ne nous offre pas de solides avantages, et s'il ne doit pas couvrir nos risques...

« Voilà, Monseigneur, les éternelles et naïves redites que je dois entendre chaque jour. J'ai vu depuis quelque temps beaucoup de négociants. Tous m'ont tenu le même langage... »

As for the attitude of the Executive toward the state of Franco-American relations just before the opening of Congress, Sérurier learned by the Secretary of State that the President himself was uncertain and unconvinced about the revocation of the Decrees, and displeased with the exorbitant tariffs placed on American goods entering France. The latter complaint was, as the French Minister pointed out, and as Barlow had been told in Paris, a Municipal regulation, having nothing to do with the Decrees, and that the lowering of it could be asked as a favour only, and not as a right. The most significant passages of Sérurier's note of October 23 to Bassano were, firstly, that which reported Monroe's remarks on the revocation of the Berlin and Milan Decrees and the fact that England's non-belief in France's good faith was the basis of her refusal to withdraw her Orders; secondly, that in which Sérurier recounted his insinuating statement to the Secretary of State upon the suitability of the moment for America to strike at England; and thirdly, Monroe's appeal for a decisive word from Napoleon, to turn the scale of public opinion toward war with England.

« ... Je trouvai le Secrétaire d'État à peu près dans la même assiette d'esprit où je l'avais laissé à son départ pour

la Virginie, » wrote Sérurier[1], « il me dit d'entrée de jeu que malgré que les informations reçues par M. le Président dans ces deux derniers mois, eussent ajouté à ses espérances, elles n'avaient pas cependant encore complété sa conviction sur les décrets; qu'il ne pourrait les croire entièrement rapportés que quand il ne resterait plus dans nos ports, un seul des navires capturés par nos corsaires depuis Novembre; que le Ministre d'Angleterre persistait toujours dans son incrédulité à cet égard, et en faisait la base du refus persévérant du rappel des ordres du Conseil...

« Je fis ici sentir à M. Monroë qu'aucune circonstance ne pouvait être plus favorable pour le redressement des griefs de la République; que l'Empereur avait attiré en Portugal toutes les forces anglaises, et que, très certainement, ce Cabinet était, au moment présent, hors d'état de faire la guerre aux États-Unis; que tout ce qu'ils demanderaient avec énergie, ne pourrait guère leur être refusé, ou ne le leur serait pas impunément...

« ... Nous ne reculerons point, m'a dit M. Monroë, nous serons inflexibles sur le rappel des Ordres du Conseil, mais pour aller plus loin, pour nous porter à de grandes résolutions, il faut que l'Empereur nous aide; il faut que l'intérêt particulier et l'intérêt public ne fassent entendre qu'un même cri. M. le Président a bien le gouvernail du vaisseau de l'État; il le dirige, mais c'est l'opinion qui doit le faire voguer. Il dépend de la France de l'acquérir, et nous le souhaitons, comme vous pouvez le concevoir, dans cette position... »

Sérurier's entire correspondence from 1810-1812, is full of hints as strong as he dared give to his chief, that some concessions were needed and that, if granted, they would have incalculable influence on American affairs.

1. Arch. Aff. Et., Corr. Dip., E.-U. 66, f° 128, deciphered n° 31, Oct. 23, 1811. Sérurier to Bassano.

In that connection, it is important to note both Sérurier's and Bassano's attitudes at the moment of the opening of Congress toward the importance of the possible war with England as a diversion from the Continent and the extent to which that war might be brought on by French influence. Sérurier, writing to Bassano on September 29, 1811, stated his long-held opinion that a few concessions were all that the United States needed to decide them to a war against England, and that such, if it came, would be in reality a war on the part of America for France. In a rather naïve apology of his conduct, he explained that from the first, his diplomacy had aimed to foster the deeply rooted quarrel which had long existed between the United States and England. He wrote to Bassano[1] :

« ... Mais le gros de la nation ne s'armera que pour son commerce, s'il lui présente des bénéfices assurés. D'autres états peuvent être mis en mouvement par un plus noble mobile, par la gloire, par exemple, et telle est notre heureuse France, mais l'intérêt seul est le Dieu du Nouveau Monde, et c'est à lui qu'il faut sacrifier si on veut l'acquérir. L'Empereur a déjà beaucoup fait dans ce système, quelques concessions de plus et l'on combattra pour lui devant Halifax, Québec et dans toutes les mers de l'Amérique.

« Votre Excellence trouvera peut-être dans mes dépêches quelque couleur américaine et fera-t-elle l'observation que je lui parle à peu près comme peut le faire le Ministre d'Amérique, que je suppose en ce moment rendu auprès d'Elle. Cette conformité paraît d'abord assez peu française, mais si elle semble exister dans les demandes, elle est loin de se rencontrer dans les vues. Si V. E. daigne réfléchir à ma position, si elle accorde quelque estime à mon carac-

1. Arch. Aff. Et., Corr. Dip., E.-U. 66, f° 113, Sept. 29, 1811. Sérurier to Bassano.

tère, elle ne s'y trompera pas longtemps. La vérité, Monseigneur, est que depuis que j'ai cru reconnaître que la querelle de ce pays avec l'Angleterre avait des racines plus profondes que je ne l'avais d'abord imaginé, qu'elle pouvait devenir une diversion très puissante en faveur de la France et aider aux grands desseins de Sa Majesté Impériale, cet objet n'a plus cessé d'occuper mon esprit; que tout ce qui peut y conduire plaît à ma pensée et que j'éprouve le besoin de le soumettre à Votre Excellence. »

Bassano, in his instructions to Sérurier, dated at Amsterdam on October 24, 1811, came out openly with orders to « fix the irresolutions of the Federal Government, » and to influence the United States to « make a decision in regard to England. » While he did not once mention the word « war, » he reiterated that America had not done enough toward making her rights respected by passing the Non-Intercourse Act of March 2, 1811. His words ; « let them do more, » could hardly be interpreted as less than a demand that they go to war. It is significant to note the reiteration of the plan of influencing America. The idea had long been to point out and remind her of the differences which she already had with England, and to try to bring about a break by keeping those grievances before her eyes while attenuating complaints against France by granting occasional concessions, often more illusory than real, and by denying stoutly that war between England and America was desired by France. Bassano wrote to Sérurier[1] :

« ... Les Etats-Unis, s'ils se pénètrent bien de leur situa-

1. Arch. Aff. Et., Corr. Dip., E.-U., 60, f° 140, deciphered, n° 14. Oct. 24, 1811, Bassano to Sérurier.

tion, doivent reconnaître qu'ayant à choisir entre le commerce de l'Angleterre et celui de la France, ce dernier est le plus conforme à leurs intérêts...

« Il est utile que ce rapprochement de l'un et de l'autre système soit mis quelquefois sous les yeux du Gouvernement fédéral, s'il peut tendre à fixer ses irrésolutions et à lui faire prendre un parti à l'égard de l'Angleterre. Dans toutes ces questions vous n'avez pas à faire de démarches officielles, mais à agir sur l'opinion du gouvernement et sur l'opinion publique. Vous avez moins à parler des désirs de la France que de l'intérêt même des Etats-Unis, et c'est de leur situation même que vous devez faire ressortir tous vos moyens de persuasion. En effet, la conduite de l'Angleterre n'exige-t-elle pas que les Américains se prononcent davantage?...

« Faites valoir avec prudence ces considérations pour déterminer les Etats-Unis à faire respecter leurs droits par l'Angleterre...

« Les Etats-Unis voudraient davantage de la part de la France mais peuvent-ils tout demander à la France sans lui donner un gage effectif de leurs dispositions. Jusqu'ici tout s'est borné de leur part à un acte du Congrès qui même n'a pas remis en vigueur, contre l'Angleterre, toutes les clauses de l'ancien acte de Non-Intercourse; qu'ils fassent davantage, alors vous pouvez faire entendre que les mesures de S. M. correspondront aux leurs, et que ses procédés envers eux auront un nouveau caractère de bienveillance... »

Thus at the moment of the opening of Congress, all eyes were turned to that body whose deliberations were to decide the policy of the United States. Diplomats concerned had their various hopes for the outcome of those deliberations, but in the end, the determination to go to war come from within and not from without, Congress. Bassano was at that crucial time writing to urge Sérurier to use his influence to persuade the United States to take

some measure against England more decisive than a mere interdiction of commerce. That object was to be gained not by any further concessions on the part of France, but by constantly reminding the Americans of their deep rooted quarrels with Great Britain. Barlow, as has been seen, was endeavouring vainly in November, 1811, to secure commercial concessions from France which should serve as a basis for demanding that England make good her promise to recall her Orders, or else which should give America the moral advantage in case of war on that issue. Sérurier was convinced that war could be effected between England and America, but he insisted that the concessions which Bassano steadily refused, were essential to its occurrence. The Executive, maintaining always the same policy, which Barlow was making a last effort in Europe to realize, found himself obliged to face the tempestuous Congress on November 4, with nothing more definite than before to prove that the policy of peaceful coercion had succeeded. Although much would depend on news which should arrive from Barlow during the session, and on events which might occur in America, the leaders of the Twelfth Congress had already determined that war alone could save the nation from utter decline and disgrace. In the last analysis, it was a group of young Republicans who dominated in the House and Senate during the first session of the Twelfth Congress who decided the nation's course.

Sérurier, as well as every other person who understood America at all, realized that the hour had come when a decision would be made in regard to foreign relations. With the Eleventh Congress had expired the terms of

the older generation of statesmen, who, since Revolutionary days, had deliberated and made the nation's laws. They had given place in the last elections to a group of younger statesmen, many of whom were scarcely 30 years of age, and none of whom had learned conservatism in the hard school of 1776-1789. Impatient of insults to national honour, dreaming of conquests in Canada to enlarge their country's domain, the « War Hawks, » as they came to be called, determined from the first to abandon the policy of peaceful coercion and to endeavour to lead the nation to arms.

The French Minister, watching the gathering of the Congress, wrote to Bassano on the eve of its meeting, a prediction of the importance of the session[1] :

« ... Les Sénateurs et Représentants arrivent en foule de toutes les parties du territoire. — Oui, et après-demain le Congrès ouvrira sa session. On croit que pas un seul membre ne sera absent à cette ouverture ce qui ne s'était pas vu depuis longtemps. On attribue ce grand empressement à la gravité des circonstances. Tous les regards, toutes les espérances se portent vers la Capitale, siège des séances des deux Chambres. Nous connaîtrons bientôt si cette assemblée souveraine doit justifier les grandes espérances que l'on fonde sur elle. Un *tiers* des membres est nouveau... »

An understanding of the declaration of war against England in June 1812, is impossible without a conception of the character of that group of 70 or so new members who dominated the legislative councils of the nation.

1. Arch. Aff. Et., Corr. Dip., E.-U. 66, f° 145, deciphered, n° 32 Oct. 31, 1811, Sérurier to Bassano.

Henry Clay of Kentucky, who had made his *début* in Congress in the last session of the Eleventh Congress, immediately became a leader in the Twelfth. Young, vigourous, impatient of delay, he was elected Speaker of the House, from which vantage point he placed his « War Hawk » colleagues in charge of the various committees. To the most important, the Committee of Foreign Relations, he named among others, Peter B. Porter of New York, John C. Calhoun of South Carolina, and Felix Grundy of Tennessee, fervent predicators of vigourous action and avocates of the reversal of that system of peaceful coercion which the government had pursued for six years.

As for the remaining two thirds of the Members of Congress, the majority of them were old-school administration Republicans, who would follow, if somewhat reluctantly, the younger spirit. There were also among the older Republicans, the faithless Smith and Giles faction in the Senate. In the House, John Randolph, grown more independent and eloquently anti-administration than ever, contested every measure which the Republicans proposed. As for the Federalists in both houses, they constituted an ineffective minority, having 6 out of 34 members in the Senate and 37 out of 142 in the House[1].

It is necessary also, in surveying the problem of the United States and her declaration of war against England, to understand something of the temper of public opinion and to see the sectional nature of its division. A strong

1. Babcock, *o. c.*, 51.

feeling for war had spread over the nation during the Autumn, and had reached fever heat in November 1811. But the objects of the public resentment varied, France or England being considered the principal oppressor, largely according to the geographical situation of the public.

The North and East, strongholds of the commercial Federalists, had from the first days of the Republic, steadfastly contended for closer relations with England, and protested against a war with that country. The South, seat of the administration Republicans, with interests agricultural rather than commercial, had formerly favoured France. But since the days of the Terror, those Republicans had, while not entirely losing an early sympathy for France[1] and distrust of England, adopted a policy between the two countries, hoping by the method of peaceful coercion to bring them both to a just respect for American rights. As for the new West, Henry Clay and Felix Grundy were its spokesmen. Their self-reliance, their vigour, their eager youth, expressed the demands of that vast trans-Appalachian region, which, impatient of the necessity of looking to the beck and call of England

1. Cf. Sérurier to Bassano, writing on the extent to which Republican policy was still in 1811, based on the memory of France's timely aid to the colonies in 1778.

« .... Cependant j'ai pu remarquer même ici, où les mémoires paraissent si courtes, qu'il reste, dans les gens de lumière et dans la partie estimable de la nation, un souvenir de ces premiers services qui sert comme point de départ pour la politique et qui combat quoiqu'avec inégalité la puissance de l'habitude et des préjugés héréditaires. » Arch. Aff. Et., Corr. Dip., E.-U. 66, f° 279, deciphered, n° 34. Nov. 10, 1811, Sérurier to Bassano.

or France for the determination of national measures, not only supported the Administration, but pushed it forward toward declaring war. It was not that they loved France more, but that war with both aggressors would have been obvious folly. England was the worse enemy in their eyes and only valour in the field, they felt, could remove the stains of insult from their national honour. Accepting the Administration's contention that the French Decrees were revoked as a starting point for their policy, and declaring that England must revoke her Orders on that basis, the young Republicans from the first day of the session, seeing Great Britain's failure to act, cried aloud for the alternative of war against her. Whereas the President and his Cabinet had rarely referred to that contingency with anything but hesitation and regret, the young champions of their party longed to engage the enemy immediately. But their prudent elders restrained them with arguments to wait until Barlow's first despatches should be received.

« ... On parle hautement de guerre[1], » reported Sérurier to Bassano on November 10. « Si les dépêches de M. Barlow sont satisfaisantes, on croit que la première mesure qui sera proposée sera d'autoriser les citoyens à armer pour protéger leurs navires. De là à la guerre il n'y a qu'un pas... »

On November 5, President Madison sent his Annual Message to Congress[2]. That part of it referring to foreign relations did not recommend war, but its tone was

1. Arch. Aff. Et., Corr. Dip., E.-U., 66, f° 279, deciphered, n° 34. Nov. 10, 1811, Sérurier to Bassano.

2 H. Adams, *o. c.*, VI, 124.

impatient enough in regard to wrongs inflicted by France and England, to please even the young Republicans. He announced England's refusal to withdraw her Orders in spite of the proof in hand of the revocation ot the French Decrees, and reported Foster's recent statement that persistence in the Non-Importation Act would bring retaliation from England. The blockade of the American coasts under pretext of visiting outgoing and incoming ships, was protested against. Strangely enough, the impressment of seamen, probably the most justifiable complaint which the United States had against England, and certainly the one which most clearly differentiated the aggressions of France and England, was not even mentioned in the Message. That omission indicated the completeness of the Administration's concentration on the demand for the repeal of the Orders in Council as the pivot on which its policy should turn [1]. As for France, the tone was anything but indicative of perfect understanding between the two nations. The belief in the revocation of the Berlin and Milan Decrees was reiterated, but discontent was expressed for the lack of proof that reparation would be made for spoliations on American property during the existence of those decrees.

1. Sérurier wrote to Bassano on Nov. 1811, in that connection : « ... Mais en dernière analyse, ou les ordres seront rapportés, ou la guerre aura lieu et si ni l'une ni l'autre chose n'arrive, la République n'aura pas fait respecter ses droits et sa Majesté Impériale sera libre de tous ses engagements... »

Arch. Aff. Et., Corr. Dip., E.-U. 66, f° 284, deciphered, n° 35.

This statement is an interesting and altogether unequivocal avowal of what was meant by America's « respecting her rights » — she was either to secure the recall of the English Orders *or go to war with Great Britain.*

The restrictions on American trade against which Barlow was so vainly protesting, were also decried by the President. Then, without indicating the certainty of his expectation of war with one or the other of the offenders, he recommended that measures should be taken to prepare for that eventuality.

« ... Congress, » he said, « will feel the duty of putting the United States in an armor and an attitude demanded by the crisis and corresponding with the national spirit and expectation...[1]. »

That part of the President's Message which dealt with foreign relations, was submitted to the Committee of Foreign Relations, of which the « War Hawk, » Peter B. Porter, was Chairman. That body took more than three weeks in which to prepare a report. In the interval, Foster had made his tardy reparation for the *Chesapeake* affair[2], but the psychological moment was passed, and his would-be trump card of concession was useless[3]. As

1. Cited by H. Adams, *o. c.*, VI, 124.

2. *The Gazette*, New York, Nov. 16, 1811, reprinted the correspondence between Monroe and Foster regarding the adjustment of the *Chesapeake* affair. Consulted at Arch. Aff. Et., Corr. Dip., E.-U. 67.

3. Sérurier wrote of the adjustment of the *Chesapeake* affair :

a. « ... Je compte que cette hypocrite condescendance ne changera rien, sans pouvoir cependant en répondre... » Arch. Aff. Et., Corr. Dip., E.-U. 66 f° 284, deciphered, n° 35, Nov. 14 1811, Sérurier to Bassano.

And again :

b. « ... Cette ruse diplomatique n'est pas même trouvée très fine et l'on y découvre trop clairement les craintes du Cabinet anglais et son désir de calmer la nation américaine et ses représentants à l'ouverture de leur assemblée, sans cependant renoncer au pillage de son commerce... » Arch. Aff. Et., Corr. Dip., E.-U. 66, f° 296. deciphered, n° 36. Nov. 18, 1811. Sérurier to Bassano.

might have been expected under the circumstances, the Committee's report was not at all affected by that gesture which was made too late.

On November 29, Porter reported on the President's Message[1]. The spirit of its composers animated the whole document. Weariness of the long continued commercial oppression of Europe and an impatience to throw off any dependence on France and England sounded the keynote of the paper. It elaborated the President's protest against England's persistent refusal to withdraw her Orders in spite of the proof offered that the French Decrees were revoked. It declaimed against a recent announcement in which England had said that even if the Decrees were non-effective for the Americans, the Orders would not be recalled. It was required that the French decrees be revoked *entirely* in regard to all Neutrals before England would change her policy. That new extension of her requirements was considered insulting by the Committee. It is significant to note also, that the report included a protest against British impressment of American seamen, a vital complaint omitted in the President's Message. Then, declaring that « we have borne with injury until forbearance has ceased to be a virtue, » the Committee recommended, not war as yet, but several measures which led directly to war. It was proposed that :

1. The regular army should be increased to 25,000 men.
2. 50,000 volunteers should be enlisted from the state militia.

1. Report of the Committee on Foreign Relations, Nov. 29, 1811. *Am. St. Ps., For. Rels.*, III, 537-538.

3. All war ships not in actual service were to be outfitted at once.

4. Merchant vessels were to be permitted to arm.

The last measure proposed might indeed have been considered a virtual declaration of war.

After the presentation of the report, the debates opened in the House, and a torrent of eloquence demanded the acceptance of the resolutions proposed by the Committee, but only as a preliminary to a declaration of war. Porter, in an address on December 6[1], permitted himself to speak even more strongly than he had written in the report, disclosing the Committee's real opinion: He declared that most of its members had considered that « all hopes of accommodating our differences with Great Britain by negotiation must be abandoned. » In other words, the majority of the Committee deemed war to be the only remedy in the then situation of Anglo-American relations. His speech contained a sort of manifesto of the « War Hawks. » Calling on the national pride and spirit to repulse the pretensions of « the inhabitants of the little island of Great Britain, » he urged the adoption of the Committee's resolutions as measures preliminary to a declaration of war.

The air rang with the ardent speeches of the defenders of the resolutions. Grundy, an active « War Hawk, » challenged the opponents to come forward[2]. Then arose

1. Benton, *Abridgments*, IV, H. of R. XII Congress, 1 st Session. Dec. 6, 1811, Peter B. Porter.

2. Benton, *Abridgments*, IV, H. of R. Dec. 9, 1811, Felix Grundy.

John Randolph, veteran orator and dissenter from the Administration's policy, whose bitter eloquence had already involved him in two duels over political subjects. Sérurier had well characterized him in a note of December 20, 1811, to Bassano[1] as « *homme bilieux, ardent, ambitieux, bizarre, d'une éloquence âpre et sauvage, comme son origine qu'on dit indienne, brouillon, inquiet, qui voudrait devenir grand, en s'attachant à une grande renommée, et n'est dans le fait qu'un grand déclamateur qui n'a point de parti parce qu'il s'en trouverait gêné... Tel est le seul avocat qui reste à l'Angleterre.* »

Randolph based his opposition to the policy of the Republican party in advocating the war-like resolutions, on the argument that they constituted a complete and indefensible denial of the true tenets of that party which had overthrown the Federalists in 1800[2]. In 1811, he declared, there was less actual cause for war than there had been 1798, when they had condemned the Federalists' preparation for war, yet the Republicans now proposed to prepare for a war which was clearly offensive. He called upon Americans to remember that after all, they were descended from Englishmen, and denounced Napoleon as a modern Tamburlaine.

If replies to Randolph's telling attacks were not always point for point, they were at least the words of men of conviction. Consistency did not count greatly with the young statesmen who had no traditions and who were

1. Arch. Aff. Et., Corr. Dip., E.-U. 66, f° 405, deciphered, n° 40. Dec. 20, 1811, Sérurier to Bassano.

2. Benton, *Abridgments*, IV, H. of R. Dec. 9, 1811, John Randolph.

in reality creating a new republicanism. Changing with the times, they saw in England's commercial policy, in her impressment of American seamen and her agitation, (as the Republicans charged), of the Indians against the whites in the West[1], more than sufficient cause for war, even if their predecessors had not believed the Directory's commercial oppressions deserving of John Adam's hostile preparations, and even if they had loudly condemned standing armies, increased navies, and taxation to support a foreign war.

Meanwhile, the mutual denunciations continued, with Randolph returning to the assault with his charges of Republican submission to French influence.

« ... This antipathy to all that is English must be French, » he cried[2]. Continuing with the bitter irony of which he was master, he asked, « will you plunge yourselves into war, because you have passed a foolish and ruinous law, [the Non-Importation Law] and we are ashamed to repeal it? But our good friend the French Emperor stands in the way of its repeal, and we cannot go too far in making sacrificies to him, who has given such demonstrations of his love for the Americans, we must, in point of fact, become parties to his war. Who can be so cruel as to refuse him this favour?... »

The administration Republicans answered such attacks

1. The battle of Tippecanoe had occurred in the Indiana Territory on November 7, 1811, between the Indians and whites. The general unrest of the Tribes in the West was, a matter of fact, provoked rather by their own dissatisfaction with being driven ever further West by the Americans, than by the incitement of the English in Canada. Cf. Babcock, o. c., 22-36.

2. Benton, *Abridgments*, IV, H. of R. Dec. 10, 1811, John Randolph.

as Randolph's with stout denials of the government's submission to France. The desire to escape from all foreign influence and to have an independent America characterized the defendant's replies.

« ... Sir, the charge of Foreign Influence, and the recriminalion of one political party by the other are unpleasant things, » said Robert Wright[1], following Randolph's address. « I should rejoice to see the curtain of oblivion drawn over them, and all uniting under the nobler distinction of American. »

Charges of partiality for France were repeated by such men as William Rufus King[2], former American Minister to London, who constantly declared that Napoleon had fulfilled the conditions of the Macon Bill and had revoked his Decrees, whereas England, who had had the same opportunity, had not taken it, and was the real enemy of the United States since she persisted in maintaining her Orders.

In the Senate, the records of the proceedings were much less exactly kept than those for the House, so that it is not so easy to catch the mood of its Members in their addresses. The young Republicans were less powerful there than in the House. William B. Giles, ancient enemy of the Administration, was elected Chairman of the Senate Committee of Foreign Relations, and he put in motion all the forces which he could to discredit the President and his Cabinet. Strange methods were resorted

1. Benton, *Abridgments*, IV, H. of R. Dec. 11, 1811, Robert Wright.

2. Benton, *Abridgments*, IV, H. of R. Dec. 13, 1811, William Rufus King.

to by that disaffected Republican faction as well as by the Federalists to defeat the Administration's aims by overreaching them. For example, Giles proposed that the standing army be increased to 35,000 men instead of to 25,000 as recommended by the House Foreign Relations Committee. The idea was to discredit the government by providing for the raising of a larger army than could possibly be recruited and which, if recruited would have been so expensive as to have embarrassed Gallatin in the extreme. In this spiteful measure the Federalists indulged in the strange paradox of voting for an army to be used against England, believing that a measure providing for an impossible number of men would quickly bring down censure upon the Republican Administration and so work effectively to aid England[1]. The army Bill was finally passed on June 6, 1812, having been constantly opposed by the War Hawks and their followers.

The next measure considered by Congress, regarding the volunteer force of 50,000 men to be drawn from the State Militia, raised a serious constitutional question which the young Republicans swept aside. The President was granted by the Constitution no power to call out the Militia except « to execute the laws of the Union, suppress insurrections, and repel invasions[2]. » But with supreme aplomb, Langdon Cheves of South Carolina, one of the leading young Republicans, declared that the im-

1. Cf. Arch. Aff. Et., Corr. Dip., E.-U. 67. Jan. 2, 1812, Sérurier to Bassano.

« ... M. Madison doit avoir également l'œil sur le Parti Fédéraliste qui se conduit avec beaucoup d'habileté, mais de manière à l'embarrasser en votant avec lui en faveur de toutes ces mesures militaires... »

2. *Constitution of the United States*, Art. I, Sect. VIII.

plied powers of the President permitted him to call it out for use in external wars. A bill was signed on February 6, therefore, giving Madison the authority[1] to summon the Militia, and making no reservation in regard to a foreign war.

On the question of the Navy, however, the war party hesitated and recoiled before the idea of increase. The United States possessed 5 or 6 frigates, a few gunboats and not one ship of the line. But the Republicans, remaining faithful at least to one of their party tenets, which had always been an intense prejudice against a large Navy, defeated a bill on February 27 to increase the nation's sea forces. This time, the balloting exhibited the strange spectacle of the Federalists voting with the war party to defeat a war measure[2]. What naval action there should be in the War of 1812 on the part of the United States, would be confined to her small force then at sea and to the privateers which should be fitted out after the declaration of war. Meanwhile, the measure to arm her merchantmen was passed, a step dangerously near war.

As for the financial measures be taken to support the coming struggle, Gallatin was at a loss to find an efficient substitute for the United States Bank, the renewal of whose charter had been prevented in 1811, largely through the machinations of Smith and Giles in the Senate. The Republican party found itself somewhat embarrassed by the necessity, but nevertheless, it threw aside the traditional watchwords of reduced taxation and of strict na-

1. Babcock, *o. c.*, 57.
2. H. Adams, *o. c.*, VI, 164.

tional economy, and asked for a measure to double import duties and to lay various direct taxes. The proposal was, however, postponed for later consideration, due to an extreme unwillingness to resort to that method of increasing the revenues. The Twelfth Congress instead, provided for a loan of $ 11,000,000 at 6 %[1]. The sectional character of the coming war was shown by the fact that scarcely $ 1,000,000 of that loan was subscribed by the wealthy North and East, and the expense of the struggle fell on the South and West, which were, after all, its real promoters.

Meanwhile, March came, and the Administration began definitely to falter in its never too enthusiastic seconding of the war measures. No news came from Barlow which could be taken as at all indicative that his transactions with France were such as to strengthen the Republicans in their preparations against England. Madison had always taken the more conservative ground that, until word arrived that Barlow's Mission was successful, the United States could not justly declare war on England. But realizing at last that the war would come probably in spite of what France should do, so determined and powerful was the war party in Congress, unfettered by the scruples of Madison and Monroe and other Republicans of their school, that the Secretary of State could only complain to Sérurier that the situation was most awkward, at the same time admitting that war would be declared just the same. It was becoming less a question of saying that war would be declared against England if

1. Babcock, *o. c.*, 58-59.

negotiations with Napoleon were favourable, than that it would come in any case. The Administration could not restrain the war party, but it still hoped that favourable news from France would arrive at least as a means of winning the support of public opinion to the war since it must come. The only effect which silence on the part of France would have on the war-determined Congress, would be to retard, but not arrest, its course.

« ..., mais vous êtes témoin de nos embarras, » said Monroe to Sérurier an early March [1]. « Nous ne traitons pas avec l'Angleterre sur une autre base que le rapport des Ordres du Conseil et rien ne nous promet ce rapport. Nous sommes donc bien décidés à la guerre. Vous nous en voyez faire les préparatifs journellement. S'ils rencontrent quelques obstacles, s'ils éprouvent quelque lenteur, si le Congrès semble faiblir et hésiter, ce ralentissement tient à ce que nous ne finissons rien avec la France. Le Gouvernement est plein de confiance dans la politique de Sa Majesté l'Empereur, et il compte qu'il sera soutenu par lui, mais ce n'est pas assez de l'opinion du Gouvernement; il faut agir sur l'opinion publique et sur le commerce... »

While all in Washington, of whatever persuasion, waited for the arrival of the *Hornet*, which must surely bring some decisive news from Barlow, an event occurred which played into the hands of the war party, and somewhat relieved the embarrassments of the Administration. A certain Irishman named John Henry, had resided in Boston in 1809, observing the political situation

1. Arch. Aff. Et., Corr. Dip., E. U. 67, March 2, 1812, Sérurier to Bassano.

in New England. While not an official agent of the British Government, his correspondence with the Secretary of Sir James Craig, Governor of Canada, served as semi-official reports. In 1811, Henry had endeavoured to sell his letters to the British Government for £ 32,000, but failing that, was returning to Canada when he made the acquaintance aboard ship of a plausible French adventurer, calling himself Count Edouard Crillon. That imposter suggested that Henry sell his papers to the American government, and offered to set as negotiator. After a few weeks, Crillon, introduced by Sérurier, who, there is every reason to believe, knew nothing of the « Count's » bad faith, sold the documents to Madison. The President, without consulting Congress, paid $ 50,000 for the letters. Henry left the United States immediately for France, unconscious of having been himself duped by Crillon to whom he had given the $ 50,000 in return for an estate in France which he later found did not exist. Madison communicated the documents to Congress on March 9, with a Message in which he charged the Federalists with intrigues in concert with the English [1]. Although the papers when examined, proved to contain no directly damaging evidence against individuals, they served at least to bring to light the fact that English officials in Canada had been interested in the conditions in New England.

As for the English Minister during the trying winter of 1811-1812, he was so rigidly bound by his instructions to make no concessions, that he could do nothing to stay

1. H. Adams, *o. c.*, VI, 176-180.

the catastrophe which he saw approaching. Sérurier reported that Foster affected an entire incredulity, and pretended to believe that the threats of war were empty.

« ... Si M. Foster n'est pas heureux dans ses négociations, » wrote the French Minister to Bassano[1], « il cherche du moins à s'étourdir en donnant des fêtes et en tenant une fort bonne maison. Il affecte de la gaieté, et beaucoup d'incrédulité sur l'intention sérieuse des Américains de faire la guerre... »

But as a matter of fact, Foster was not so light-hearted as he seemed, for as early as December 1811, he had written to his government that war was inevitable unless the English system were changed[2].

On March 21, he received instructions dated January 28, which were absolutely unconciliatory. They reiterated the demand for the revocation of the Berlin and Milan Decrees as they affected all Neutrals and not the United States alone. More than that, France must abandon her exclusive tariffs and other municipal measures which acted as hindrances to neutral trade. In other words, before England would withdraw her Orders, Napoleon must give up his whole commercial policy. Foster communicated his instructions to Monroe, disclosing the fact that he was powerless to offer any concession on the part of his country. That positive statement was one of the final and deciding factors in determining the United States to go to war with England[3]. Although one other

1. Arch. Aff. Et. Corr. Dipl., E.-U. 67, Jan. 21, 1812. Sérurier to Bassano.
2. H. Adams, *o. c.*, VI, 190.
3. *Ibid.*, 191.

serious moment of hesitation followed the communication of Foster's instructions, the die was really cast for war with England.

Scarcely had knowledge of Foster's instructions reached Congress, where renewed demands for war immediately grew more insistent, when on March 23, it was learned in Washington that a French squadron acting under orders, had been burning American shipping bound to and from enemy ports. The effect of that news was almost fatal to the American government's dignity and policy, for it could hardly dare longer to keep up the pretense of believing the Berlin and Milan Decrees to be revoked[1]. The Congress was deliberating at that moment in secret session on a Message of the President in which he had recommended an Embargo on shipping in American ports for 60 days (later changed to 90), a measure suitable as a preliminary to war but at the same time permitting the Administration several weeks delay in which to wait for news from Europe. The war party, arrested in its course against England, found itself obliged to recognize that the interpretation of French policy in which it had always sustained the Administration in its defense of French revocation, could only with the greatest difficulty be continued. The cry for a war with both offenders against their neutral rights and national honour, arose from all parts of the country. On the issue which had been chosen, of war on the grounds of hostile commercial measures, it seemed entirely unjust to choose

1. H. Adams, *o. c.*, VI, 192-193. Cf. Arch. Aff. Et., Corr. Dip., E.-U. 67, April 9, 1812, Sérurier to Bassano.

between the aggressors. In an amazingly frank avowal to Sérurier, Monroe declared that the government could no longer believe in the revocation of the French Decrees, and that the whole foundation of the policy which was leading to a war with England was thus destroyed.

« ... M. Monroe avoua, » wrote Sérurier to Bassano[1], « qu'à la vérité l'affaire des frégates avait produit une impression très forte sur cette assemblée [le Congrès], qu'elle avait, aux yeux des républicains mêmes, paru une preuve trop manifeste que les Décrets Impériaux n'étaient point rapportés, et que ce funeste accident avait ébranlé toute la base du système de l'Administration ; que l'Exécutif, par inclination autant que par système, avait toujours voulu croire à ce rappel, sans lequel il était impossible d'engager la querelle avec l'Angleterre ; que son intérêt à cet égard se trouvait parfaitement d'accord avec celui de la France, mais qu'il avait été de toute impossibilité de justifier l'inconcevable conduite du commandant de nos frégates ; il me dit que l'on avait demandé péremptoirement à l'Exécutif dans quelle mesure il se trouvait avec Sa Majesté Impériale, que le Président avait fait répondre qu'au départ des dernières dépêches de M. Barlow les négociations étaient sur le pied le plus amical et que l'on se flattait que le Hornet en apporterait la conclusion ; que quel que fût le résultat il serait communiqué au Congrès qui prononcerait. M. Monroé insista ici, sur ses précédentes déclarations, que si l'Administration était abandonnée de la France, elle succomberait infailliblement ou serait obligée de proposer la guerre aux deux puissances, ce qui était contre son intérêt autant que contre son penchant... »

Monroe's complaints were beginning to sound with the monotony of a refrain, and Sérurier, who had already

1. Arch. Aff. Et., Corr. Dip., E.-U. 67, April 9, 1812, Sérurier to Bassano.

seen equally critical moments pass harmlessly, only pointed out to the Secretary of State the obvious folly of a double war, and assured him that Barlow would doubtless have sent more than satisfactory explanations and news by the *Hornet*[1]. The Administration, indeed, resorted to such a compromise with its convictions in explaining to Foster the reasons for which it did not take more decisive action against France that conscience must have pricked strongly the bosoms of Monroe and Madison. They well knew that war with both France and England would be disastrous, that war with England was too far on its way to declaration to be arrested unless the Orders were revoked, and therefore that some reason must be given other than inexpediency for their failure to recommend including France definitely in the war measures on the ground of the recent burnings. Deciding to continue their policy, in spite of recent happenings, Monroe told Foster that the Administration was as convinced as ever that the Berlin and Milan Decrees were revoked, and denied that the recent burnings of the American vessels had been effected under their provisions. He said that since the captains of the American ships did not understand French very well they had doubtless mistaken the verbally delivered explanation for the burning of their

1. Arch. Aff. Et., Corr. Dip., E.-U. 67, April 9, 1812. Sérurier to Bassano, and cf. :

Arch. Aff. Et., Corr. Dip., 67, April 15, 1812, Sérurier to Bassano. « ... Certainement la sortie de cette escadre a eu des motifs d'utilité sur lesquels il ne m'est pas parmis d'élever un doute, mais comme Ministre de S. M. auprès de ces peuples, V. E. me pardonnera de lui exprimer quelques regrets de cette expédition dans ce moment de crise... »

boats[1]. One measure, however, which Congress passed immediately following the affair, was effective against both France and England, namely the Embargo which the President had recommended on April 1. As a punishment for France[2] it was a mild enough measure. Although it was declared to be aimed equally at both France and England, it was really intended as another preliminary to war with England. When Foster remonstrated against it, Madison declared that the door was still left open, should England repeal her Orders[3].

Meanwhile the *Hornet* was awaited impatiently and it was openly declared that peace or war would doubtless be determined by the news which it should bring. The amazingly long delay in learning the results of Barlow's diplomacy and continued burnings of American vessels by the French began to make Sérurier seriously uneasy. He wrote to Bassano[4] :

« ... Il en résulte que le retard de l'arrivée du *Hornet* est l'objet de l'impatience et de l'humeur des Fédéralists et des Républicains. Je ne rencontre pas un Sénateur, un Représentant, un membre de l'Administration qu'ils ne m'expriment sur ce retard beaucoup de mécontentement. Je les tranquilise de mon mieux, mais le lendemain c'est à recommencer. Dans l'intervalle, arrivent les avis de quelques nouveaux bâtiments américains brûlés, et les

1. H.Adams, *o. c.*, VI, 195-198, Foster to Wellesley, April 1, 1812. MSS. British Archives.

2. Arch. Aff. Et., Corr. Dip., E.-U. 67, April 9, 1812. Sérurier to Bassano.

3. H. Adams, *o. c.*, VI, 199. Foster to Wellesley, April 3, 1812. MSS. British Archives.

4. Arch. Aff. Et., Corr. Dip., E.-U. 67, May 4, 1812. Sérurier to Bassano.

fédéraux redoublent leurs déclamations contre la France. J'ai pu remarquer, Monseigneur, qu'à chaque dénonciation d'un fait de ce genre, s'il y avait occasion de prendre les votes sur une question de quelque importance, il se trouvait toujours que l'Administration avait perdu quelques voix... »

The last sentence furnishes an interesting indication of the way in which the strength of the American government varied as it was confirmed or discredited in its policy by the affairs of the nations across the Atlantic. It was from that dependence that the young Republicans hoped to free the country by resorting to a war which should prove by their valour, their right to a place as an independent nation.

In the midst of all the turmoil, Madison, who felt the Presidency for the next term to be extremely uncertain in the then state of affairs, was nevertheless nominated in a Congressional Caucus on May 18. There is the unlovely legend, not, however, substantiated by historical fact, that on the eve of the Caucus, Clay and his colleagues demanded of Madison that he pledge himself to recommend war, or renounce his pretensions to the Presidency[1]. Be that as it may, Madison received the nomination, recommended war on June 1, and was reëlected in November, 1812.

Four days after the Caucus, the despatches sent from France by the *Hornet* arrived in Washington, and great was the general dismay. No definite results were reported by Barlow, only continued negotiations for the treaty,

1. Babcock, *o. c.*, p. 61, cites Williams, *Statesman's Manual*, I, 348.

and no commercial concessions. Sérurier, with his usual attention to colourful detail, has left an interesting account of the arrival of the *Hornet*, the consternation with which it was learned that the despatches which it brought contained nothing favourable, the immediate reaction to that news, — a demand for war against both France and England, — the ultimate weakening of the exponents of that policy, and the final decision on which Congress acted, namely, to declare war against England and merely to take such measures in regard to France as should silence a charge of partiality but not lead to hostilities with that country. Sérurier wrote to Bassano on May 27[1] :

« Le *Hornet* est enfin arrivé. Sur le bruit qui s'en répandit, les avenues et la secrétairerie d'Etat furent encombrées d'une foule de députés des deux Chambres du Congrès, d'étrangers et de citoyens impatients de savoir ce que ce vaisseau si longtemps attendu de la France avait apporté. Bientôt il fut connu que le *Hornet* n'avait rien transmis de favorable et que Mr Barlow n'avait encore rien conclu avec V.E. ; à cette nouvelle les furieuses déclamations des fédéralistes, du commerce et des nombreux amis de l'Anglelerre ont redoublé; les républicains, déçus dans leurs espérances, s'y sont réunis, et il n'y a eu pendant trois jours qu'un cri général de guerre contre la France et l'Angleterre tout à la fois ; l'impétueux Randolph, dans une motion d'ordre, sollicita le congrès de déclarer que, dans ces circonstances, la guerre contre l'Angleterre était également injuste et impolitique et proposa de mettre les deux puissances sur le même pied.

« Le bon sens de la Chambre des Représentants re-

1. Arch. Aff. Et., Corr. Dip., E.-U. 67, f° 237, n° 57, May 27, 1812. Sérurier to Bassano.

poussa cette intempestive proposition à une majorité de 72 voix contre 37. Aujourd'hi ces premiers accès de fureur se sont affaiblis, et les conseils de la politique commencent à se faire entendre. On se montre toujours également mécontent de la France, mais on sent le ridicule d'une guerre aux deux puissances... Il n'est donc plus question que de déclarer la guerre aux Anglais et de prendre des mesures contre la France qui prouvent le ressentiment que l'on a de nos prétendus griefs, et qui, n'entraînant pas un éclat, suffisent cependant pour répondre au reproche de partialité, et satisfaire les passions mises en jeu contre nous... »

It would seem indeed that the American government had determined to follow such a course as Sérurier had described, for two days after the arrival of the despatches, there appeared in the *National Intelligencer* an article written in a discontented tone in regard to France, but accompanied by reprints of Barlow's instructions and his correspondence as so far reported with Bassano. The tone of that diplomatic interchange has already been noticed and its non-committal nature remarked. The very calmness, although it promised nothing, attenuated the abruptness of the first realization that the negotiations had not been successful. It is possible that Sérurier was right in surmising that the correspondence had been inserted for that pacific purpose, by the Administration. Certain it is that Monroe announced to him that Congress, which had taken a brief recess during May, was on the point of reopening its debates, but that French affairs would be left undetermined until the arrival of the *Wasp* from France.

Immediately afterward, came a vessel from England

bearing unofficial news that that country was about to relax its system in regard to the Orders in Council, but the official communications, the only ones which were submitted to Congress, showed the same inflexibility which had for so long characterized its policy. Castlereagh, having succeeded Wellesley as Secretary for Foreign Affairs, had sent to the British Minister in Washington, under date of April 10, the uncompromising instructions communicated to Monroe which Madison afterward declared to have been « the more immediate impulse to war[1]. » Therein it was reiterated that England had always avowed her intention to withdraw her Orders whenever France should absolutely revoke her Decrees, but that Bassano's report of March 10, as well as many other indications, proved that the Berlin and Milan Decrees still existed. Further than that, Castlereagh's note repeated that England would never recall her Orders, unless France should revoke her entire system in regard to all Neutrals, and not Americans alone.

Taking the communication as a last ultimatum, Madison sent a confidential Message to Congress on June 1, 1812, recommending that war be declared against England[2]. That document was intensely significant, for it completely reversed the order of American grievances as they had always been argued against England. No hint had before escaped the Administration or Congress that any abuse save the continuance of the Orders in Council, would serve as the leading cause for war against England. But,

1. Adams, *o. c.*, VI, 221.

2. Benton, *Abridgments*, IV, H. of R., June 1, 1812. President Madison's War Message.

Madison, in enumerating American grievances, announced the impressment of American seamen as the first *casus belli*[1]. Following that, he named as reasons for declaring war, secondly, the blockade of the American coast by cruisers, and thirdly the system of blockades under the name of Orders in Council. On the latter head, the Message disclaimed unjust favouritism of France and maintained that England had had the same opportunity under the Macon Bill as France had had, but that the former had failed to take advantage of it. Furthermore, adding insult to injury, England had refused to accept the French revocation as having been made in good faith, had demanded more than sufficient proofs, and had even increased her original demands by making the condition that the Decrees must be revoked in regard to all Neutrals and not America alone before England would relax her system[2].

1. Impressment never figured to any extent in Franco-American difficulties. Cf. Zimmerman, *o. c.*, 273.

But cf. also, evidence of Napoleon's method of extracting French seamen enlisted on American ships. French impressment was less offensive to the United States than English, because it affected so few men. Napoleon to Vicq-Admiral Decrès, March 26, 1805. *Correspondance de Napoléon*, X, n° 8482.

« Les matelots français ont, dans différentes circonstances et dans différents pays, pris des engagements avec des capitaines de vaisseaux américains; ils se croient à l'abri de toute poursuite sur les bâtiments de cette nation. Faites arrêter tout matelot natif français enrôlé sur bâtiment américain dans nos ports. Faites faire une circulaire sur cet objet; ne pas nommer les *Américains*, mais dire en général, toute nation neutre. »

2. On July 6, 1812, in the course of Congressional investigations undertaken immediately after the declaration of war against England, regarding the status of Franco-American relations, Monroe reported the following comparative tables. They showed England

In the fourth place, Madison continued his recital of grievances by charging England with inciting plots to encourage disunion, a charge based largely on the John Henry affair. Fifthly, Great Britain was charged with having caused agitation among the Indians and with having influenced them to attack the North Western territories. Concluding that « we behold in fine, on the side of Great Britain, a state of war against the United States, and on the side of the United States a state of peace towards Great Britain, » Madison recommended that Congress resort to arms, committing « a just cause into the hands of the Almighty Disposer of events. »

Touching, after his long denunciation of England, on Franco-American relations, the Message stated that even since the revocation of the Decrees as they violated America's neutral rights, France had authorized illegal captures and practised other outrages against the property of

to have been the greater material offender against United States shipping, but exhibited the fact that numerous French captures had occurred since the decrees of Berlin and Milan were « revoked. »

British Captures	*Vessels*
Captures etc., prior to Orders in Council of November, 1807.	528
Captures etc., after Orders in Council of November 1807....	389
Total.....	917
French Captures	
Captures etc., prior to Berlin & Milan Decrees	206
Captures etc., during existence of those Decrees.....	307
Captures etc., since revocation of those Decrees	45
Total.....	558

Am. St. Ps., For. Rels., III, 534. Communication of Monroe to House of Representative, July 6, 1812.

American citizens. It protested against the failure of France so far to furnish indemnity for her depredations, declared that America insisted on securing reparations, but concluded with the following statement :

« ... I abstain, at this time, from recommending to the consideration of Congress definitive measures with respect to that nation, in the expectation that the result of unclosed discussions between our Minister Plenipotentiary at Paris and the French Government will speedily enable Congress to decide, with greater advantage, on the course due to the rights, the interests, and the honor of our country[1]. »

The President's Message loosed a torrent of eloquence in Congress. John C. Calhoun, ardent young Republican from South Carolina, reported on June 3, the result of the deliberations of the House Foreign Relations Committee on that Message[2]. Repeating that in view of all the English aggressions between 1805 and 1812, « forbearance had ceased to be a virtue, » he announced that « your committee recommend an immediate appeal to arms ». The sincere opinion of those men who were thus entering upon a war, the causes of which were undoubtly

1. Barlow, in Paris, receiving in August, news of the declaration of war, sent out to various European powers, copies of the President's Message, *in English*, so that the true words might be known. He remarked and pointed out that the *Moniteur* of August 6, 1812, which carried a translation of the Message, had *omitted* obviously intentionally that part which made clear the American government's determination to secure indemnity from France.

Cf. Sérurier on that passage of the Message.

Arch. Aff. Et., Corr. Dip., E.-U. 67, f° 248, n° 59, June 19, 1812. Sérurier to Bassano.

2. *Am. St. Ps., For. Rels.*, III, 567-570.

sufficient, but whose moment of declaration and selection of opponent might be justly questioned, was well expressed by Calhoun in his report. The contest had been forced on the United States, he said. Then continuing remarks which were in fact the apology of the war party, he stated that the conflict :

« ... is radically a contest for American sovereignty and independence. Your committee believing that the free-born sons of America are worthy to enjoy the liberty which their fathers purchased at the price of so much blood and treasure, and seeing in the measures adopted by Great Britain a cause commenced and persisted in which must lead to a loss of national character and independence, feel no hesitation in advising resistance by force, in which the Americans of the present day will prove to the enemy and to the world, that we have not only inherited that liberty which our fathers gave us, but also the will and power to maintain it... »

More than two weeks of debate passed before the Bill declaring war against England, proposed by Calhoun on June 3, was passed[1]. A few voices were again raised for war with France as well as England, but Barlow's recently published non-committal correspondence was taken as sufficiently indicative of France's intention to make reparations to the United States to prevent the arguments for war against France from gaining much ground. Memorials were presented from groups of citizens from all parts of the country to Congress as it deliberated, either seconding or remonstrating against the proposed

1. Cf. Benton, *Abridgments*, and *Annals of Congress* for the debates in both Houses, June 1, 1812. — June 18, 1812.

declaration of war against England[1]. In general the sectional attitude toward the coming hostilities was well forecast by those appeals of the citizens to the lawmakers of the land[2]. The New England states held out to the end against the war, and the Southerners, in most cases, approved the conduct of the Administration.

On June 17, the Senate, with a vote of 19-13, passed the Bill declaring war against Great Britain. Randolph made one last desperate effort to prevent the catastrophe by moving to postpone the consideration of the Bill until October. When that failed, he moved to postpone it at least until July. But he endeavoured in vain to stay the avalanche, and on June 18, the House passed the measure by a vote of 79-49. On the same day the Presidant affixed his signature to the Bill, and on June 19, he issued the Proclamation of War against England[3].

The die was cast. The Rubicon was crossed. The step which had for years loomed before Americans as a solemn possibility had at last been taken. The United States was at war with one of the « two great champions of the universe[4]. »

1. Cf. *Congressional Globe*, vol. 24, House, for examples of Memorials.

2. *Am. St. Ps., For. Rels.*, III, 617. Monroe to Barlow, June 16, 1812.

3. Richardson, *o. c.*, I, 512-513.

4. Cf. The Administration's apology of its declaration of war against England and its attitude toward France, *Am. St. Ps., For. Rels.*, III, 617, June 16, 1812, Monroe to Barlow.

« ... An act declaring war against Great Britain will probably pass both Houses of Congress this day or tomorrow... This result has grown out of the continued aggressions of that power on our commerce. Propositions were made in both Houses of Congress to comprise France in the same declaration; and in the Senate the vote

A consideration of the circumstances which from the Autumn of 1811 to June 1812, led directly to the declaration of hostilities, has shown the steadily decreasing attention of Napoleon to American affairs, as he turned his energies toward Russia. But it may be deduced from documentary evidence, especially from Bassano's corres-

was 15 to 17 against it. In the other House the majority against it was proportionately greater. Its defeat in both Houses had been, doubtless in great measure, owing to a passage in your last letter, which insinuated the intention of the French Government to make some proposition in favor of indemnities, to be comprised in the Treaty you are negotiating, whereby an expectation was expressed that that interest would be provided for and satisfaction given for the other grounds of complaint against France. The sentiment in both Houses as it is in the nation generally, produced by so many acts of injustice, for which reparation has not been made, is strong against France...

« In advising war against England, as was distinctly implied by the late message which brought that subject under consideration, the President stated to Congress his strong dissatisfaction with the French Government on every former ground of complaint, and to which others of more recent date have been added, with the single exception of the repeal of the Decrees. He promised also to bring our affairs with that Power fully before Congress as soon as he should receive the communications which you had promised to forward by the *Wasp*...

« In demanding of Great Britain the repeal of her Orders in Council on the ground of the repeal of the French decrees, this government has, from a regard to justice given to France all the credit to which she had any claim, believing the notification alone of the French Minister of Foreign Affairs to the Minister Plenipotentiary of the United States at Paris of their repeal, was sufficient to justify the demand of the repeal of the Orders in Council of Great Britain on her own principles. But it was never the intention of this government to concede to France anything on that subject, to which she was not fairly entitled. On the contrary, it has been its intention, as is sufficiently evident by your first instructions, to exact from her a more strict and rigorous compliance with regard to the repeal... »

pondence with Sérurier, that not lack of time alone, but a quite firm conviction that the Americans would go to war with England, no matter what Napoleon did in that last period, made concessions seem unnecessary to the French government at least for the time being. Certain it is that hostilities came in a moment of great public irritation against France, an that war was voted by men who where firmly convinced that they were engaging England in a conflict entirely of their own volition to avenge their own grievances and not Napoleon's.

It remains to review summarily the various factors in Franco-Anglo-American relations which led to the War of 1812 and to deduce, however tentatively, on the basis of the material examined, some possible conclusions to the various problems outlined for consideration in the present study.

CONCLUDING CONSIDERATIONS

In the pages of the *Mémorial de Sainte-Hélène*, there appears the Emperor's own interpretation of the relation of his policy to the origins of the Anglo-American War of 1812.

« ... Après le dîner, » wrote Las Cases, describing an evening at Longwood, « la conversation a conduit l'Empereur à parcourir le sujet spécial de sa querelle maritime avec l'Angleterre... Plus tard il a développé les mesures par lesquelles il avait forcé les Américains à se battre contre les Anglais. Il avait trouvé le moyen, disait-il, d'attacher leurs intérêts à leurs droits, car c'est pour les premiers qu'on se bat, disait-il, beaucoup plus que pour les seconds[1]... »

Thus Napoleon in the isolation of the « *petite île*, » dictating the colours in which he wished the story of his meteoric career to be painted for posterity, claimed that his measures had forced the Americans to fight the War of 1812 against England.

That his policy had its repercussion in American affairs, and was connected to some degree with the origins and precipitation of the conflict which occurred between Great Britain and the United States, it seems fair to conclude from the evidence submitted. But that

1. Las Cases, *Mémorial de Sainte-Hélène*, vol. II, part 7, p. 72.

it compelled the Americans to take up arms against the English appears a statement too absolute to accept without discussion, and especially so when the question is one into which too many imponderables enter to make possible any but the most tentative conclusions.

Looking upon the complex problem that has been under consideration, from the vantage point of time which a century permits, and from an insight into the diplomacy of England, of France, and of the United States which open Archives render possible, it may perhaps be suggested with something more of truth that Napoleon's maritime policy and his measures did not *force*, but rather furnished the *pretext* to the Americans to declare the War of 1812. The word *pretext* implies a predisposition on the part of the United States, and necessitates a fuller explanation, however tentative.

From the first years of the nation's existence the real interests and inclinations of the American people had expressed themselves in a desire to stand independently of Europe, to trade with all the world and to maintain their rights as Neutrals on the high seas with which in time of war the great belligerents were interfering. Jefferson inaugurated a policy of peaceful coercion in an effort to secure those rights without departing from the path of neutrality. Powerless, however, to compel either France or England to desist from their respective anti-commercial measures by means of an Embargo, the United States resorted to a kind of diplomacy by auction. The failure of the Erskine agreement did not deter the American government which continued in its policy by passing the Macon Bill N° 2.

Napoleon had long looked upon an Anglo-American war as a possible means of diverting England's concentration from hostilities in Europe. Aware of the already existing anti-British sentiment after the American Revolution, and of the sources from which friction might arise between the erstwhile colonies and their mother country, Napoleon began, especially after 1803, to foster such sentiment. His method of procedure was not so much the fixing of a policy and the prosecution of it to the end, as the playing upon an already existing situation in an endeavour to turn it to his advantage. Thus in the case of the Floridas, he sought to influence the Americans from time to time, but especially in 1808, to make common cause with him against England with the coveted Spanish colony as the reward.

Failing of success in that quarter, both through the refusal of the United States and his own loss of control over Spain, he saw in the commercial situation in which as a Neutral, America stood with relation to the Orders in Council of Great Britain and the Berlin and Milan Decrees of France, an even greater opportunity of « attaching their interests to their rights, » and so of fostering an economic antagonism against England which had grown more, rather than less, bitter as the years of political independence passed. Essentially an opportunist, when one move failed to secure his ends, he quickly changed tactics. When, therefore, he saw the occasion which the Macon Bill offered, he resorted to the expedient of the letter of August 5, 1810. If it be argued that Napoleon did not mean that communication to be ambiguous, it may at least be said in reply that he knowingly let pass

without correction, the American Administration's interpretation of the document, which, inexact as it was, served as the ultimate pretext for war with England. In that the United States called upon Great Britain to withdraw her Orders in Council on the basis of the absolutism of the French revocation in regard to the United States, and in that England's constant refusal to accept the American interpretation of that revocation served as the leading cause for the War of 1812, in so far did Napoleon's policy serve as a pretext for the conflict.

Again the word *pretext* arises, and needs further defining. Between 1803 and 1811, the United States had endured much from both France and England in the way of commercial aggressions, but while both were not far from being equal offenders on that score against her neutral rights, there were other quarrels with England which differentiated the two offenders in the public mind, — impressment, blockade of their ports almost within sight of shore, the popular if not well-founded rumour of England's inciting the Indians as well as New England citizens to rebellion against the government.

But such crises as the *Chesapeake* affair had passed without war. Measures of peaceful coercion were continued as the strongest arms of Administrations which did not want war, and which, once engaged in the path of accepting the theory that Napoleon's decrees were revoked in good faith and unconditionally, clung tenaciously to a policy based on that interpretation in spite of proof that they had been mistaken in believing them withdrawn. Until 1811, the government did not, however, definitely seek to see in Napoleon's revocation a pretext

for war but rather a pretext for continuing to endeavour peacefully to coerce England to withdraw her Orders. It was not until a group of young Republicans gained control of Congress in November 1811, — men who repudiated the slow and ineffectual policy which their party had been following since the Administration of Jefferson and who had determined that bloodshed in the field of battle could alone cleanse the national honour, — it was not until then that they looked with fixed purpose for a pretext to declare war on England. Accepting, therefore, the Administration's policy of maintaining the good faith of Napoleon's revocation, while not being at all blind to France's aggressions, but seeing rather in England's the greater of two evils, they used the questionable revocation of the French decrees as the pretext for a war on which they were already determined, unless England should have changed her policy absolutely. They cherished no illusions of Napoleon's friendship, and indeed thought seriously of including France in their hostile declaration. But material considerations, and the faint hope that Barlow might secure the desired indemnity and commercial treaty, as well as the additional quarrel with England over impressment, not to mention the other minor causes of war, led the majority of the nation's lawmakers to declare hostilities against the aggressor which seemed to them to be the real enemy. They repudiated earnestly Federalist and English charges of connivance with Napoleon in their action, and indeed, evidence shows that there was absolutely no concert with France in the declaration of war in June 1812.

Sérurier had always thought that the war would never

come unless France should make some satisfactory concession to the United States, and wrote constantly, urging as strongly as he dared that if the Emperor's desire were to see hostilities engaged between England and America he must sustain and give an impetus to the government of the United States by inaugurating a definitely conciliatory policy. Napoleon, however, was too occupied in 1811-1812 with preparations for the Russian campaign, and he turned his face to the East, confident that the war, if it was to come between England and America, would break out of itself without any further move on his part. And he was not deceived. It was another case of the circumstance that had occurred so often in Anglo-Franco-American relations, — the aims of France and America often coincided, but for different reasons and striven for by divergent means. The United States went to war in 1812 to defend and secure her rights as a neutral commercial nation of her own volition, and not because Napoleon wished it. The Americans were not forced to the step, but rather used a pretext which the Emperor's policy offered, to declare a war which they themselves willed against Great Britain.

A more futile war than that of 1812-1814 between Great Britain and the United States is difficult to find in the pages of History. With the American public torn by internal sectional dissensions, the Federalists refusing to support the war and remonstrating against the government's policy [1], attempts being made by both sides from the first to secure on armistice, and the Russian Emperor

1. Cf. Hartford Convention, 1814.

offering his mediation, which was refused, the war drew to an indecisive close in 1814. The English Orders in Council having been revoked five days after the declaration of war, the issue of impressment had been left as the main reason for continuing the conflict. The Treaty of Ghent, however, did not settle that troublesome question, and it was not until 1870 when a Naturalization Act was passed by Parliament, abandoning the doctrine of inalienable allegiance that impressment, though long since fallen into disuse, was definitely abolished.

If it may be said with any degree of justice that the Americans succeeded in welding themselves into an independent people and could turn their attention from the affairs of Europe to the development of their own West after 1815, it was not so much because of any victories won by their arms, as by the turn of events after the fall of the Empire and the restoration of peace in Europe.

The question of paper blockades ceased to be of moment to the world for several years following the Congress of Vienna. They were outlawed later in the Declaration of Paris in 1856, by the London Naval Conference in 1909 and were protested against by the Hague Conferences. But in the American Civil War and in the World War of 1914-1918, they figured again in America's relations with Europe. The problem of broken voyages, ultimate destination, the nature of contraband, the rights of Neutrals on the high seas in time of war, — all have reappeared in military up heavals since the War of 1812. The United States has at times been guilty of abandoning the policy which she herself had been a leader in maintaining should be imposed on the nations of the Earth.

Given the gravity off all these considerations, it is profoundly to be hoped that after the century which has passed since 1812, the world will at last profit by the lesson of *futility* which has been taught by the spectacle of wars, and that all nations will continue in the path toward which they are turning their steps. Mutual rights and well-being are not to be gained by destructive war but by constructive international understanding and agreement. The day is indeed still distant, but perhaps the principle of coöperation will yet win over that of dissociation, and the vision of Washington and the many who had preceded and who have followed him, may yet be realized, when « mankind will be connected,... like One Great Family, in fraternal ties. »

BIBLIOGRAPHY OF SOURCES AND WORKS CONSULTED

MANUSCRIPT SOURCES

I. — Archives.

A) France.

ARCHIVES NATIONALES, Paris.

Séries AF IV, Secrétairerie d'État Impériale, especially cartons AF IV 1681, and AF IV 1241, containing originals and minutes of decrees, ministerial reports, records of Council of Commerce, etc.

MINISTÈRE DES AFFAIRES ÉTRANGÈRES, Paris.

Correspondance Diplomatique, États-Unis. Volumes 59, 60, 61, 62, 63, 64, 65 and supplements No. 3 and No. 5 (1804-1814).

B) United States.

DEPARTMENT OF STATE, Washington, D. C.

Despatches from the Ministers to France. Volumes 10, 11, 12, 13 and 20 (1806-1814, and 1821).

II. — Personal Papers and Correspondence.

LIBRARY OF CONGRESS, Washington.

John Armstrong, MSS.

William Crawford, MSS.

James Madison, MSS.

III *a*. — Printed Documentary Sources. Official and Diplomatic.

A) France.

Le Moniteur Universel, official Journal of the First Empire. Carefully prepared under the imperial censorship.

Napoleon I, *Correspondance*. Published by order of Napoleon III., 32 volumes, Paris, 1858-1870, in-f°. Essential source. Correspondence covering the public life of Napoleon I. Incomplete, however, as the Imperial Commission entrusted with the publication, suppressed certain papers, and did not have access to some others.

Napoleon I, *Lettres inédites de Napoléon Ier*. L. de Brotonne, ed., Paris, 1898, in-8°. Further completes *Correspondance*.

Napoleon I, *Lettres inédites*, an VIII-1815. Léon Lecestre, ed., 2 vols., Paris, 1897, in-8°. Contains many letters omitted in former editions and omitted either purposely or by oversight by the Commission which published Napoleon's correspondence in 1858-1870.

B) **United States.**

American State Papers, Documents Legislative and Executive, 38 volumes, Washington, 1832-1861, in-f°. Volume III of the series on *Foreign Relations* contains many of the important diplomatic papers regarding the relations between the United States, England and France during the Napoleonic Period, but fails to include much valuable material which is found in the Archives of the Department of State.

Annals of Congress, 1789-1824, 42 vols., Washington, 1834-1856, in-8°. Although far from stenographic in their accuracy as reports, the volumes relating to the period 1800-1812, furnish valuable insight into the American legislative attitude toward foreign relations during the Napoleonic epoch.

Abridgments of the Debates of Congress, 1789-1856, Thos. Benton, 16 vols., New York, 1857-1861, in-8°.

Mac Donald William, ed.
Documentary Source Book of American History, 1606-1926, New York, 1926, in-8°. Selections from treaties to which the United States has been a party, presidential proclamations, and legislative measures taken by Congress, etc.

Richardson, J. D., ed.
A Compilation of the Messages and Papers of the Presidents, 10 vols., Washington, 1896-1899, in-4°.

III *b*. — Printed Documentary Sources. Unofficial.

A) France.

LAS CASES, E. U. D. M. J. (Marquis DE).
Mémorial de Sainte-Hélène, Journal de la vie privée et des conversations de l'Empereur Napoléon à Sainte-Hélène. Paris, 3 vols., 1823, in-8°. Interesting chiefly as being Napoleon's attempt to anticipate posterity by leaving through Las Cases, the interpretation of his career that he would wish the future to accept. The foundation of the « *légende napoléonienne.* »

RÉMUSAT (M^me^ DE), *Mémoires.*
Paul de Rémusat, ed., 3 vols., Paris, 1880, in-8°. Interesting views of the personages of the first Empire, coloured by strong personal prejudices.

TURREAU (DE GARAMBOUVILLE), Louis-Marie.
Aperçu sur la situation politique des États-Unis. Paris, 1815, in-8°. Interesting as the commentary of the French Minister to the United States (1804-1810), on the Americans and their government.

B) Great Britain

A view of the State of Parties in the United States of America being an attempt to account for the present ascendancy of the French or Democratic Party in that country. Edinburgh, 1812. Pamphlet in-8°. Very pro-English in tone.

On the Past Relations between Great Britain and the United States. G. Sidney, Publisher, London, 1813. Pamphlet in-8°. Denounces the conduct of America and praises the forbearance of England in all mutual dealings.

C) United States.

Diary of John Quincy Adams, 1794-1845. Allan Nevins, ed., New York, 1928, in-8°. Selected passages from the *Diary*. Valuable commentaries on his times. Interesting for a study of the relations between the United States and Russia.

ARMSTRONG, John.
Notices of the War of 1812, 2 vols., New York, 1840. Treats the war from a military point of view.

An Exposition of the Causes and Character of the Late War between the United States and Great Britain. Wm. Slade, Jr., Printer and Publisher. Middlebury, Vt., July 4, 1815. Pamphlet in-8°. Written as an apology of the American policy.

An Impartial and Correct History of the war between the United States of America and Great Britain. John Lan, Publisher, New York, 1815. Pamphlet in-8°. Pro-American and anti-English.

OSBORN, Lucretia Perry.
Washington Speaks for Himself, New York, 1927, in-8°. Selections from the papers of George Washington.

SECONDARY WRITINGS

I. — General Historical Works.

ADAMS, Henry.
History of the United States, 9 vols., New York, 1893, in-8°. Volumes III, IV, V, and VI, cover the Napoleonic period and the relations between the United States, France, and England, as well as other features of foreign relations and domestic history in the most thorough work yet attempted with its solid basis on the documents. Fully documented. Sound criticism of sources in most cases. Most valuable secondary work employed in the preparation of the present thesis. Especially used in studying England's relation to the problem.

ADAMS, Randolph Greenfield.
A History of the Foreign Policy of the United States, New York, 1924, in-8°. Clear, rapid and authoritative survey.

BOURGEOIS, Émile.
Manuel historique de Politique étrangère, 4 vols., Paris, from 1892 to 1926, in-8°. Vol. II : *Les Révolutions, 1789-1830*, furnishes a clear and concise conception of the Continental System.

Cambridge History of British Foreign Policy. Ward & Gooch, eds., 3 vols., Cambridge, 1922, in-8°. Thorough, unbiased and authoritative view of British foreign policy. Each chapter written by a specialist.

Cambridge Modern History, vol. VII, *The United States*. Ward, Prothero and Leathes, eds., Cambridge, 1905, in-8°. Good general History of the United States. Composed of chapters contributed by specialists.

LEVASSEUR, E.
Histoire du Commerce de la France, 2 vols., Paris, 1912, in-8°. Good treatment of Continental System in volume II.

MUZZEY, David, S.
The United States of America, 2 vols., New York, 1924, in-8°. Excellent manual of American History.

PARISET, G.
Le Consulat et l'Empire. Vol. IV of *L'Histoire de France contemporaine*, Lavisse, ed., Paris, 1921, in-8°. Good on Continental System.

PASQUET, D,
Histoire politique et sociale du Peuple américain, 2 vols., Paris, 1924, in-8°. Well documented general history.

WOODBURN, James Albert.
The Citizen and the Republic, New York, 1908, in-8°. Excellent manual exposing the principles of Civics.

WOODBURN, James Albert.
Political Parties and Party Problems in the United States, New York, 1904, in-8°. Concise and accurate, well and interestingly written.

II. — **Special Studies.**

BABCOCK, Kendrick Charles.
The Rise of American Nationality. Vol. XIII of *American Nation Series*, Hart, A. B., ed., New York, 1906, in-8°. Concise survey of foreign and domestic history of the United States, 1811-1819.

CHANNING, Edward.
The Jeffersonian System. Vol. XII of *American Nation Series*, Hart, A. B., ed., 1801-1811, New York, 1906, in-8°. Good general treatment of United States History.

CHUQUET, Arthur.
La Jeunesse de Napoléon, 3 vols., Paris, 1898-1899, in-8°. Valuable for documentation on the early years of Napoleon's life.

COQUELLE, P.
Napoléon et l'Angleterre, 1803-1813. Paris, 1904, in-8°. Political rather than economic emphasis given to the study of the Continental System. Anti-Napoleonic.

DAVIS, George B.
The Elements of International Law, New York, 1916, in-8°. Good, clear, concise.

DARMSTÆDTER, Paul.
Studien zur Napoleonischen Wirtschaftspolitik, in *Vierteljahrschrift für Sozial-and Wirtschaftsgeschichte*, II, 559-

615; III, 1-31; Berlin, 1904-5. Study of Napoleon's system of protection for French industries. Based on documents from the Archives Nationales.

DRIAULT, Edouard.
Napoléon et l'Europe, Paris, 1927, in-8°. Rather general in manner of treatment.

ESMEIN, A.
Gouverneur Morris, Paris, 1906, in-8°. Study of Franco-American Relations, 1796-1815. The Memoirs and papers of Morris furnish the principal sources of documentation.

JOHNSON, Allen.
Jefferson and his Colleagues, New Haven, 1921, in-8°. Interesting rapid sketch of the personalities in the American Government during the first two decades of the 19th century.

LACOUR-GAYET, G.
Napoléon, sa vie, son œuvre et son temps, Paris, 1921, in-4°. Interesting for its « *vue d'ensemble* » of the life and personages of the First Empire.

MAHAN, A. T.
The Influence of Sea Power upon the French Revolution and Empire, 1793-1812, 2 vols., London, 1892, in-8°. Excellent treatment in volume II of the Continental System.

MARION, Marcel.
Histoire financière de la France depuis 1715, 5 vols. in-8°. Vol. IV, 1797-1818, Paris, 1925. Scientific, based on documentary sources. Volume IV important for study of Consulate and Empire.

MAC CARY, B. C.
The Causes of the French Intervention in the American Revolution, Toulouse, 1928, in-8°. Thesis for Doctorat d'Université. Careful Study.

MELVIN, Frank Edgar.
Napoleon's Navigation System, New York, 1919, in-8°. Scientific, well documented monograph. Especial emphasis on economic features of the problem.

MOORE, John Bassett.
The Principles of American Diplomacy, New York, 1918, in-8°. Concise. Treated topically.

SCHALÇK DE LA FAVERIE, A.
Napoléon et l'Amérique, Paris, 1917, in-8°. The only French work devoted to the subject of the present thesis. Not based on adequate documentation, unscientific.

SOREL, Albert.
Le Blocus Continental. Le Grand Empire, 1806-1812. Volume VII of *L'Empire et la Révolution française*, Paris, 1904, in-8°. Practically no study is made of Franco-American relations. Chiefly political aspects of Napoleon's policy. Excellent study of European History of the period.

SPEARS. John R.
The Story of the American Merchant Marine, New York, 1919, in-8°. Interesting if rather popular study.

TODD, Charles B.
Life and Letters of Joel Barlow, New York, 1886, in-8°. The best biographical work on Barlow.

UPDYKE, Frank A.
The Diplomacy of the War of 1812, Baltimore, 1915, in-8°. Good survey.

VANDAL, Albert.
Napoléon et Alexandre Ier, 2 vols, in-8°, Paris, 1894. Authoritative and detailed.

WILLSON, Beckles.
America's Ambassadors to France, 1777-1927, London, 1927, in-8°. Well written and interesting, but given somewhat to general statements not based sufficiently on sources.

ZIMMERMAN, James Fulton.
Impressment of American Seamen, New York, 1925, in-8°. Careful piece of research.

III. — Partial List of Articles read in Periodicals.

DRIAULT, Edouard.
Une Conception nouvelle de la Politique extérieure de Napoléon. Revue des Études napoléoniennes[1], vol. VII, 1915, pp. 5-38.

DUNAN, Marcel.
Le Système Continental. La Revue des Études napoléoniennes, vol. IV, pp. 115-146, Paris, 1913.

1. The whole series of the *Revue des Études napoléoniennes*, begun in 1912, furnishes interesting articles on various aspects of the Napoleonic Era.

DUNAN, Marcel.
Un adversaire du Système Continental. Revue des Études napoléoniennes, vol. VII, pp. 262-275, 1915.

Secret Reports of John Howe, 1808-1809. American Historical Review, vol. XVII, 1911, pp. 70-102, 232-354.

LINGELBACH, W. E.
Historical Investigation and the Commercial History of the Napoleonic Era. American Historical Review, vol. XIX, January, 1914, pp. 257-282.

MANTOUX, P.
Le Comité du Salut Public et la mission de Genêt aux États-Unis. Revue d'Histoire moderne et contemporaine, 1909-1910, pp. 5-35.

MURET, Pierre.
Une Conception nouvelle de la Politique étrangère de Napoléon Ier. Revue d'Histoire moderne et contemporaine, vol. XVIII, pp. 177-200, 353-380, 1913.

STRAUS, Oscar S.
The United States and Russia, their Historical Relations 1776-1898. American Review, vol. CLXXXI, New York, 1905, pp. 237-250.

TRICOCHE, G. N.
Une page peu connue de l'Histoire de France. La Guerre Franco-Américaine, 1798-1801. Revue Historique, Paris, 1904, pp. 288-299.

APPENDIX.

DIPLOMATIC REFERENCES

I. — UNITED STATES

PRESIDENTS OF THE UNITED STATES	SECRETARIES OF STATE
1. George WASHINGTON, April 30, 1789-March 3, 1797.	1. Thomas JEFFERSON, March 22, 1790-December 31, 1793.
	2. Edmond RANDOLPH, January 2, 1791-August 20, 1795.
	3. Timothy PICKERING, December 10, 1795.
2. John ADAMS, March 4, 1797-March 3, 1801.	4. Timothy PICKERING (continued) to May 12, 1800.
	5. John MARSHALL, May 13, 1800-March 4, 1801.
3. Thomas JEFFERSON, March 4, 1801-March 3, 1809.	6. James MADISON, March 5, 1801-March 3, 1809.
4. James MADISON, March 4, 1809-March 3, 1817.	7. Robert SMITH, March 6, 1809-April 1, 1811.
	8. James MONROE, April 2, 1811-March 3, 1817.

MINISTERS OF THE UNITED STATES TO FRANCE

1. Benjamin Franklin, 1777-1785.
2. Thomas Jefferson, 1785-1789.
3. Gouverneur Morris, 1792-1794.
4. James Monroe, 1794-1796.
5. Charles Pinckney & Robert Livingston, 1796-1804.
6. John Armstrong, 1804-1810.
7. Jonathan Russell (Chargé d'Affaires), 1810-1811.
8. Joel Barlow, 1811-1812.
9. William Crawford, 1813-1815.
10. Albert Gallatin, 1816-1823.

MINISTERS OF THE UNITED STATES TO GREAT BRITAIN

1. John Adams, 1785-1788.
2. Gouverneur Morris, 1790-1792.
3. Thomas Pinckney, 1792-1794.
4. John Jay, April 19, 1794-1796.
5. Rufus King, May 20, 1796-1803.
6. James Monroe, April 18, 1803-1806.
7. William Pinkney, May 12, 1806-1811.
8. J. S. Spear, in charge of Legation, March, 1811-July, 1811.
9. Jonathan Russell (Chargé d'Affaires), July 27. 1811-1812.
10. John Quincy Adams, February 28, 1815-1817.

II. — FRANCE

SECRETARIES OF EXTERIOR RELATIONS

1. Directory :
   Talleyrand, 1797 —
2. Consulate :
   Talleyrand, 1799 —
3. Empire :
   Talleyrand, Prince de Bénévent, — 1807.
   Champagny, Duc de Cadore, 1807-1811.
   Maret, Duc de Bassano, 1811-1814.

MINISTERS OF FRANCE TO THE UNITED STATES

1. Comte de Moustier, 1787-1789.
2. Chevalier Jean de Ternant, 1791-1793.
3. Edmond-Charles Genêt (fils), 1792-1793.
4. Joseph Fauchet, 1793-1795.
5. Pierre-Auguste Adet, 1795-1797.

N. B. — Létombe, Consul General in the United States, was the sole qualified representative of France in the United States during the « quasi-war » of 1797-1799. When official diplomatic relations were resumed, Pichon replaced Létombe as Consul General, 1801-1804.

6. General Bernadotte. Nominated January 21, 1803. Resigned May 27, 1803. Never installed.
7. General Louis-Marie Turreau de Garambouville, 1804-1810.
8. Comte Louis-Barbe-Charles Sérurier, 1810-1816.

III. — GREAT BRITAIN

King George III (1760 *b.*-1820 *d.*).
Regency of the Prince of Wales, later George IV, 1811-1820.

PRIME MINISTERS

1. William Pitt (Younger), 1784-1800.
2. Henry Addington, 1800-1804.
3. William Pitt, 1804-1804.
4. Lord Grenville, 1804-1807.
5. Duke of Portland, 1807-1809.
6. Spencer Perceval, 1809-1812 (assassinated).
8. Lord Liverpool, 1812-1827.

SECRETARIES OF STATE

Foreign Department.	*War and Colonies.*
1. Lord Harrowby. 1804-1805.	1. Earl Camden.
2. Lord Mulgrave, 1805-1806.	2. Viscount Castlereagh.
3. Charles James Fox, 1806-1807.	3. W. Windham.
4. George Canning, 1807-1809.	4. Viscount Castlereagh.
5. Lord Bathurst, 1809-1809.	5. Viscount Castlereagh.
6. Marquess Wellesley, 1809-1812.	6. Viscount Castlereagh.
7. Viscount Castlereagh, 1812-1822.	7. Earl Bathurst.

MINISTERS OF GREAT BRITAIN TO THE UNITED STATES

1. George Hammond, 1791-1795.
2. Phineas Bond (Chargé d'Affaires), 1795-1796.
3. Robert Liston, 1796-1800.
4. Edward Thornton (Chargé d'Affaires), 1800-1803.
5. Anthony Merry, 1803-1806
6. David Erskine, 1806-1809.
7. Charles F. Jackson, 1809-1810.
8. John P. Morier (Chargé d'Affaires), 1810-1811.
9. Augustus Foster, 1811-1812.

ERRATA

Page 17, line 7, — for likes o many, read like so many.
Page 17, note 1, — for french, read French.
Page 19, line 20, — for minister, read agent.
Page 19, line 21, — for Congres, read Congress.
Page 21, line 10, — for wich, read which.
Page 26, note 2, and page 29, note 1, — for *Political Parties*, read *Political Parties and Party Problems*.
Page 35, line 8, — for inaquate, read inadequate.
Page 38, notes 2 and 3. — for Mahan, *o. c.* 264, and Mahan, *o. c.* 234, read Mahan, *o. c.* II, 264, and Mahan, o. c. II, 234.
Page 39, line 16, — for war of 1754-1763, read war of 1756-1763.
Page 46, line 8, — for abrogatcd, read abrogated.
Page 50, line 14, — for what ever, read whatever.
Page 50, note 3, — for pricniple, read principle.
Page 57, in title of Chapter II, — for 1803-1809, read 1806-1809.
Page 59, line 17, — for ycar, read year.
Page 64, line 6, — for tose cure, read to secure.
Page 72, line 3, — for effets, read effects.
Page 77, line 8, — for scrupules, read scruples.
Page 79, line 7, — for of France, read in France.
Page 82, line 18, — for jour, read your.
Page 94, line 2, — for anyting, read anything.
Page 96, note 1, — for Amstrong, read Armstrong.
Page 105, note 1, — for November (?) 1810, quoted by H. Adams, *o. c.*, IV, 301, read July 9, 1811, quoted by H. Adams, *o. c.*, V, 301.
Page 107, note 1, — for H. Adams, *o. c.*, V, 31, read H. Adams, *o. c.*, V, 33.
Page 123, line 3, — for April 29, read April 26.
Page 125, line 15, — for *Monsieur*, read *Ministre*.
Page 127, line 18, — for April 29, read April 26.
Page 128, note 4, — for dismissep, read dismissed.
Page 136, lines 11-12, — for citizens, read citizens'.
Pgae 138, line 23, — for ambigous, read ambiguous.
Page 142, line 16, — for accute, read acute.
Page 144, line 12, — for particulary, read particularly.
Page 144, note 1, — for MMS, read MSS.
Page 148, note 2, — for 50 °/₈, read 50 °/₀.
Page 148, note 2, — for on, read an.
Page 159, note 1, — for p. 107, read p. 113.
Page 170, line 22, — for Juanary, read January.

Page 170, note 2, — for Corr. Did., 63, read Corr. Dip., E.-U., 63.
Page 177, lines 25-26, — for Massachusetts, read Virginia.
Page 178, line 6, — for enliglatened, read enlightened.
Page 180, note 2. — Sérurier signed himself as Sérurier or Serurier, although the name is usually found spelled Serrurier in contemporary documents where he is mentioned.
Page 191, line 1, — for become, read became.
Page 192, line 20, — for offlcial, read official.
Page 197, line 7, — for Alto', read Altho'.
Page 198, line 28, — for particulary, read particularly.
Page 199, line 17, — for this Majesty, read his Majesty.
Page 212, line 10, — for impraticable, read impracticable.
Page 222, line 23, for withersoever, read whithersoever.
Page 229, for line 2, — read, — and except during the Civil War period always supported by the American government.
Page 236, note 3, for June, read July 4, 6, 9, 11.
Page 238, line 20, — for a light, read slight.
Page 243, line 6, — for litterature, read literature.
Page 243, line 14, — for of paper, read paper of.
Page 261, note 1, — for July 10, read July 20.
Page 274, line 8, — for instructions, read instruction.
Page 276, line 4, — for himsef, read himself.
Page 276, line 9, — for acquaintaince, read acquaintance.
Page 280, note 1, — for November 19, read November 15.
Page 286, line 27, — for disagraeable, read disagreeable.
Page 287, line 5, — for co-öperation, read coöperation.
Page 287, line 14, — for that countries, read that country.
Page 300, line 4, — for withold, read withhold.
Page 306, note 2, — for MMS, read MSS.
Page 319, line 10, — for predicators, read predicants.
Page 319, line 11, — for avocates, read advocates.
Page 328, line 6, — for recriminalion, read recrimination.
Page 328, line 11, — for repeated, read refuted.
Page 330, line 21, — for measures be taken, read measures to be taken.
Page 333, line 10, — for set, read act.
Page 337, note 1, — for Corr. Dip., 67, April 15, 1812, read Corr. Dip., E.-U., 67, April 15, 1812.
Page 345, line 22, — for undoubtly, read undoubtedly.
Page 346, line 8, — for independence. Your, read independence... Your.
Page 346, line 12, — for cause, read course,
Page 349, line 7, — for an, read and.
Page 357, line 28, — for up heavals, read upheavals.

Toulouse. — Impr. et Libr. Édouard Privat. — 1048. — 12-1929.

ORAL QUESTIONS

1. *Chateaubriand et l'Amérique.*
2. *Le pittoresque dans la* Chronique *de Bernat Desclot.*

Vu :

Toulouse, le 12 juin 1929.

Le Doyen de la Faculté des Lettres,

F. DURRBACH.

Vu et permis d'imprimer :

Toulouse, le 15 juin 1929.

Le Recteur,
Président du Conseil de l'Université,

J. DRESCH.

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TOULOUSE. — Impr. et Libr. ÉDOUARD PRIVAT. — 719. — 7-1929